and shall be signed by such person in acknowledgment of its having been so read out to him:

Provided that any person who has for a period of six months served with the Force, shall, on appointment to the Force thereafter, be deemed to be a member of the Force notwithstanding that the provisions of this section have not been complied with in his case.

6. Resignation and withdrawal from the Force.—No member of the Force shall be at liberty to—

(*a*) resign his appointment during the term of his engagement, except before the expiration of the first three months of his service; or

(*b*) withdraw himself from all or any of the duties of his appointment, without the previous permission in writing of the Commandant or assistant commandant or any other officer authorised by the Commandant to grant such permission.

GENERAL DUTIES OF MEMBERS OF THE FORCE.

7. General duties of members of the Force.—(*1*) It shall be the duty of every member of the Force promptly to obey and to execute all orders and warrants lawfully issued to him by any competent authority, to detect and bring offenders to justice and to apprehend all persons whom he is legally authorised to apprehend and for whose apprehension sufficient grounds exist.

(*2*) Every member of the Force shall be liable to serve without and beyond, as well as within, the territory of India.

SUPERINTENDENCE, CONTROL AND ADMINISTRATION OF THE FORCE.

8. Superintendence, control and administration of the Force.—(*1*) The superintendence of, and control over, the Force shall vest in the Central Government; and the Force shall be administered by the Central Government in accordance with the provisions of this Act and of any rules made thereunder, through such officers as the Central Government may from time to time iappoint in this behalf.

(*2*) The Headquarters of the Force shall be at Neemuch or at such other place as may from time to time be specified by the Central Government.

(*3*) While on active duty outside its headquarters, the Force shall be subject to the general control and direction of such authority or

officer as may be prescribed or as may be specially appointed by the Central Government in this behalf.

OFFENCES AND PUNISHMENTS.

9. More heinous offences.—Every member of the Force who—

(*a*) begins, excites, causes or conspires to cause or joins in any mutiny, or, being present at any mutiny, does not use his utmost endeavour to suppress it, or knowing, or having reason to believe in, the existence of any mutiny, or of any intention or conspiracy to mutiny or of any conspiracy against the State does not, without delay, give information thereof to his superior officer; or

(*b*) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer, whether on or off duty, knowing or having reason to believe him to be such; or

(*c*) shamefully abandons or delivers up any post or guard which is committed to his charge, or which it is his duty to defend; or

(*d*) directly or indirectly holds correspondence with, or assists or relieves any person in arms against the State or omits to discover immediately to his superior officer any such correspondence coming to his knowledge; or

who, while on active duty,—

(*e*) disobeys the lawful command of his superior officer; or

(*f*) deserts the Force; or

(*g*) being a sentry, sleeps upon his post or quits it without being regularly relieved or without leave; or

(*h*) leaves his commanding officer, or his post or party, to go in search of plunder; or

(*i*) quits his guard, picquet, party or patrol without being regularly relieved or without leave; or

(*j*) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard or breaks into any house or other place for plunder, or plunders, destroys or damages property of any kind; or

(*k*) intentionally causes or spreads a false alarm in action or in camp, garrison or quarters; or

(*l*) displays cowardice in the execution of his duty,

shall be punishable with transportation for life for a term of not less than seven years or with imprisonment for a term which may extend to fourteen years or with fine which may extend to three months' pay or with fine to that extent in addition to such sentence of transportation or imprisonment.

10. Less heinous offences.—Every member of the Force who—

(*a*) is in a state of intoxication when on, or after having been warned for any duty or on parade or on the line of march; or

(*b*) strikes or attempts to force any sentry; or

(*c*) being in command of a guard, picquet or patrol, refuses to receive any prisoner or person duly committed to his charge, or without proper authority releases any person or prisoner placed under his charge, or negligently suffers any such prisoner or person to escape; or

(*d*) being under arrest or in confinement, leaves his arrest or confinement, before he is set at liberty by lawful authority; or

(*e*) is grossly insubordinate or insolent to his superior officer in the execution of his office; or

(*f*) refuses to superintend or assist in the making of any field-work or other work of any description ordered to be made either in quarters or in the field; or

(*g*) strikes or otherwise ill-uses any member of the Force subordinate to him in rank or position; or

(*h*) designedly or through neglect injures or loses or fraudulently disposes of his arms, cloths, tools, equipments, ammunition or accoutrements, or any such articles entrusted to him or belonging to any other person; or

(*i*) malingers or feigns or produces disease or infirmity in himself, or intentionally delays his cure, or aggravates his disease or infirmity; or

(*j*) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person; or

(*k*) does not, when called upon by his superior officer so to do or upon ceasing to be a member of the Force forthwith deliver up, or duly account for, all or any arms, ammunition, stores, accoutrements or other property issued or supplied to him or in his custody or possession as such member; or

(*l*) knowingly furnishes a false return or report of the number or state of any men under his command or charge or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men or to the Government or to any member of, or any person attached to, the Force, or who, through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid; or

(*m*) absents himself without leave, or without sufficient cause overstays leave granted to him; or

(*n*) is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and discipline; or

(*o*) contravenes any provision of this Act for which no punishment is expressly provided; or

who, while not on active duty,—

(*p*) commits any of the offences specified in clauses (*e*) to (*l*) (both inclusive) of section 9,

shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to three months' pay, or with both.

11. Minor punishments.—(*1*) The Commandant or any other authority or officer as may be prescribed, may, subject to any rules made under this Act, award in lieu of, or in addition to, suspension or dismissal any one or more of the following punishments to any member of the Force whom he considers to be guilty of disobedience, neglect of duty, or remissness in the discharge of any duty or of other misconduct in his capacity as a member of the Force, that is to say,—

(*a*) reduction in rank;

(*b*) fine of any amount not exceeding one month's pay and allowances;

(*c*) confinement to quarters, lines or camp for a term not exceeding one month;

(*d*) confinement in the quarter-guard for not more than twenty-eight days, with or without punishment drill or extra guard fatigue or other duty; and

(*e*) removal from any office of distinction or special emolument in the Force,

(*2*) Any punishment specified in clause (*c*) or clause (*d*) of sub-section (*1*) may be awarded by any gazetted officer when in command of any detachment of the Force away from headquarters, provided he is specially authorised in this behalf by the Commandant.

(*3*) The assistant commandant, a company officer or a subordinate officer, not being below the rank of subedar or inspector, commanding a separate detachment or an outpost, or in temporary command at the headquarters of the Force may, without a formal trial, award to any member of the Force who is for the time being subject to his authority any one or more of the following punishments for the commission of any petty offence against discipline which is not otherwise provided for in this Act, or which is not of a sufficiently serious nature to require prosecution before a Criminal Court, that is to say,—

(*a*) confinement for not more than seven days in the quarter-guard or such other place as may be considered suitable, with forfeiture of all pay and allowances during its continuance;

(*b*) punishment drill, or extra guard, fatigue or other duty, for not more than thirty days, with or without confinement to quarters, lines or camp;

(*c*) censure or severe censure: provided that this punishment may be awarded to a subordinate officer only by the Commandant.

(*4*) A jemadar or sub-inspector who is temporarily in command of a detachment or an outpost may in like manner and for the commission of any like offence, award to any member of the Force for the time being subject to his authority any of the punishments specified in clause (*b*) of sub-section (*3*) for not more than fifteen days.

12. Place of imprisonment and liability to dismissal on imprisonment.—(*1*) Every person sentenced under this Act to imprisonment may be dismissed from the Force, and shall further be liable to forfeiture of pay, allowance and any other moneys due to him, as well as of any medals and decorations received by him.

(*2*) Every such person shall, if he is so dismissed, be imprisoned in the prescribed prison, but if he is not also dismissed from the Force, he may, if the Court or the Commandant so directs, be confined in the quarter-guard or such other place as the Court or the Commandant may consider suitable.

13. Deductions from pay and allowances.—The following penal deductions may be made from the pay and allowances of a member of the Force by his company officer, that is to say,—

(*a*) all pay and allowances for every day of absence either on desertion or without leave and for every day of imprisonment

awarded by a Criminal Court or of confinement awarded under section 11;

(*b*) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted;

(*c*) all pay and allowance for every day on which he is in hospital on account of sickness certified by the medical officer attending on him at the hospital to have been caused by an offence committed by him under this Act;

(*d*) all pay and allowances ordered to be forfeited under section 11; and

(*e*) such sum as may be ordered by the Commandant or assistant commandant in order to make good any expenses caused by the member of the Force, or any loss of, or damage or destruction done by him to, any arms, ammunition, equipment, clothing, instruments or decorations belonging to the Force or to any buildings or property.

14. Collective fines.—Whenever any weapon, part of a weapon or ammunition, forming part of the equipment of a company or other similar unit of the Force is lost or stolen, the Commandant may, after making such inquiry as he thinks fit and subject to such rules as may be prescribed, impose a collective fine upon the subordinate officers and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

ARREST.

15. Arrest.—(*1*) Any member of the Force who commits any offence specified in section 9 or section 10 may be placed on open or close arrest by any officer of the Force.

(*2*) Where any subordinate officer orders an arrest under sub-section (*1*), he shall forthwith or at the earliest opportunity report the arrest to his company or detachment commander who shall after investigating the case order the release or the continued arrest of the member of the Force arrested.

MISCELLANEOUS.

16. Powers and duties conferrable and imposable on members of the Force.—(*1*) The Central Government may, by general or special order,

confer or impose upon any member of the Force any of the powers or duties conferred or imposed on a police officer of any class or grade by any law for the time being in force.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), the Central Government may invest the Commandant or an assistant commandant with the powers of a Magistrate of any class for the purpose of inquiring into or trying any offence committed by a member of the Force and punishable under this Act, or any offence committed by a member of the Force against the person or property of another member:

Provided that—

(*i*) when the offender is on leave or absent from duty, or

(*ii*) when the offence is not connected with the offender's duties as a member of the Force, or

(*iii*) when it is a petty offence, even if connected with the offender's duties as a member of the Force,

the offence may, if the prescribed authority within the limits of whose jurisdiction the offence has been committed, so directs, be inquired into or tried by an ordinary Criminal Court having jurisdiction in the matter.

17. Protection for acts of members of the Force.—(*1*) In any suit or proceeding against any member of the Force for any act done by him in pursuance of a warrant or order of a competent authority, it shall be lawful for him to plead that such act was done by him under the authority of such warrant or order.

(*2*) Any such plea may be proved by the production of the warrant or order directing the act, and if it is so proved the member of the Force shall thereupon be discharged from liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such warrant or order.

(*3*) Notwithstanding anything contained in any other law for the time being in force, any legal proceeding (whether civil or criminal) which may lawfully be brought against any member of the Force for anything done or intended to be done under the powers conferred by, or in pursuance of, any provision of this Act or the rules thereunder, shall be commenced within three months, after the act complained of was committed and not otherwise, and notice in writing of such

proceeding and of the cause thereof shall be given to the defendant or his superior officer at least one month before the commencement of such proceeding.

18. Power to make rules.—(*1*) The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) regulating the classes and grades of, and the pay, pension and other remuneration of, members of the Force, and their conditions of service in the Force;

(*b*) regulating the powers and duties of officers authorised to exercise any functions by or under this Act.

(*c*) fixing the period of service for members of the Force;

(*d*) regulating the award of minor punishments under section 11, and providing for appeals from, or the revision of, orders under that section, or the remission of fines imposed under that section, and the remission of deductions made under section 13;

(*e*) regulating the several or collective liability of members of the Force in the case of the loss or theft of weapons and ammunition;

(*f*) for the disposal of criminal cases arising under this Act and for specifying the prison in which a person convicted in any such case may be confined.

19. Validation of acts done before commencement of Act.—Any order made, thing done, or action taken by or in relation to a member of the Force, on or after the 15th day of August, 1947, but before the commencement of this Act, shall for all purposes be deemed to have been made, done or taken under this Act as if this Act were in force on the day on which such order was made, thing was done or action was taken.

THE SCHEDULE.

RECRUITING ROLL.

(*See* section 5.)

After you have served in the Force for such period as the Central Government may prescribe, you may, at any time when not on active duty, apply for discharge, through the officer to whom you may be subordinate, to the Commandant, and you will be granted your discharge after two months from the date of your application, unless your discharge would cause the vacancies in the Force to exceed one-tenth of the sanctioned strength in which case you shall be bound to remain until this objection is waived or removed. But when on active duty, you shall have no claim to a discharge, and you shall be bound to remain to do your duty until the necessity for retaining you in the Force ceases when you may make your application in the abovementioned manner:

Provided that, if you wish to withdraw from the Force, you may submit your resignation at any time before the expiration of the first three months of your service, but not afterwards until the completion of the period prescribed as aforesaid; the Commandant may either accept your resignation forthwith or at the end of three months from the date of its receipt:

Provided, also, that the Commandant may, if he thinks fit, allow you to resign at any time on your giving three months notice of your wish to do so.

Signature of the member of the Force in acknowledgment of the above having been read out to him.

Space for impression of the member's left thumb to be taken in the presence of the enrolling officer.

Signed in my presence after I had ascertained that the candidate understood the purport of what he signed.

Commandant
or other authorised enrolling officer,

Place

Date

STATEMENT OF OBJECTS AND REASONS.

The "Crown Representative's Police Force" which was raised by the late Crown Representative as a reserve force to aid Indian States in the maintenance of law and order in times of emergency, has been retained as the Central Reserve Police Force even after the lapse of paramountcy.

2. The Crown Representative's Police Force Law, 1939, which was made under the Foreign (Jurisdiction) Order, 1937, to provide for the constitution and regulation of the Force, automatically ceased to have effect from the 15th August, 1947, but no enactment has been made for the regulation and control of this Force by the Government of India after the 15th August, 1947. The objects of the proposed Bill are to replace the old Crown Representative's Police Force Law, 1939, and thus provide for the organisation, control and regulation of the Central Reserve Police Force by the Central Government. For the purposes of this Bill, this Force falls within the category of "any other armed forces raised or maintained by the Dominion" mentioned in paragraph 1 of List I of the Seventh Schedule to the Government of India Act, 1935, as adapted.

V. J. PATEL,

NEW DELHI,

The 22nd November, 1949.

NOTIFICATION.

No. L.D 969—Legis. 30-49-5, dated Bangalore, 18th January 1950.

Ordered that the accompanying Indian Penal Code (Amendment) Bill, 1949 (69 of 1949), the Prohibition of Manufacture and Import of Hydrogenated Vegetable Oils Bill, 1949 (71 of 1949), the Punishment of Tax Evaders and Blackmarketeers Bill, 1949 (72 of 1949), the Children's Protection Bill, 1949 (73 of 1949), the Council of Press of India Bill, (74 of 1949), the Training and Employment Bill (76 of 1949), the Rehabilitation Finance Administration (Amendment) Bill (77 of 1949), the Banking Companies (Amendment) Bill (79 of 1949) and the Undesirable Immigrants (Expulsion from Assam) Bill, 1949 (81 of 1949) be republished in the *Mysore Gazette* for general information.

By Order,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

PART V.

Bills introduced in the Constituent Assembly of India (Legislative), Reports of Select Committees presented to the Constituent Assembly of India (Legislative) and Bills published under Rule 39 of the Constituent Assembly (Legislative) Rules of Procedure and Conduct of Business.

GOVERNMENT OF INDIA

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

The following Bills were introduced in the Constituent Assembly of India (Legislative) on the 16th December, 1949 :—

A. BILL No. 69 OF 1949.

A. Bill further to amend the Indian Penal Code.

WHEREAS it is expedient further to amend the Indian Penal Code (XLV of 1860) in the manner hereinafter appearing;

It is hereby enacted as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Indian Penal Code (Amendment) Act, 19 .

(2) It shall extend to such parts of the Dominion of India where the Indian Penal Code and all amended provisions thereof are in force at present.

(3) It shall come into force at once.

2. Amendment of section 53, Act XLV of 1860.—In section 53 of the Indian Penal Code (XLV of 1860) (hereinafter referred to as the said Act) the words "First-Death" shall be omitted and the clauses Secondly, Thirdly, Fourthly, Fifthly, and Sixthly, shall be renumbered First, Secondly, Thirdly, Fourthly, and Fifthly, respectively.

3. Amendment of section 121, Act XLV of 1860.—In section 121 of the said Act the words "death, or" shall be omitted.

4. Amendment of section 132, Act XLV of 1860.—In section 132 of the said Act the words "with death or" shall be omitted.

5. Amendment of section 194, Act XLV of 1860.—In section 194 of the said Act the words "either" and "death or" shall be omitted.

6. Amendment of section 302, Act XLV of 1860.—In section 302 of the said Act the words "death, or" shall be omitted.

7. Omission of section 303, Act XLV of 1860.—Section 303 of the said Act shall be omitted.

8. Amendment of section 305, Act XLV of 1860.—In section 305 of the said Act the words "death or" shall be omitted.

9. Amendment of section 307, Act XLV of 1860.—The second paragraph of section 307 of the said Act shall be omitted.

10. Amendment of section 396, Act XLV of 1860.—In section 396 of the said Act the words "death, or" shall be omitted.

STATEMENT OF OBJECTS AND REASONS.

The object of the Bill is to abolish sentence of death prescribed for different offences under the Indian Penal Code. Experience has shown that the mode of punishment has not only failed to achieve its object of creating deterrent effects but has in many cases put an end to human lives which, if spared, might have proved very precious to the country. The abolition of death sentence will enable the state to prevent the irreparable mischief arising out of miscarriage of justice. The main provision of the Bill will do away with sentence of death altogether as a mode of punishment.

ROHINI KUMAR CHAUDHURI.

A. BILL No. 71 OF 1949.

A Bill to provide for the prohibition of manufacture and import of hydrogenated vegetable oils.

WHEREAS it is expedient to provide for the prohibition of the manufacture and import of hydrogenated vegetable oils popularly known as *vanaspati* ghee;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(*1*) This Act may be called the Prohibition of Manufacture and Import of Hydrogenated Vegetable Oils Act, 1949.

(2) It extends to all the provinces of India and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.

(3) It shall come into force on such date as the Central Governmene may, by notification in the official Gazette, appoint in this behalf.

2. Definitions.—In this Act,—

(*a*) "vegetable oils" include cocoanut, groundnut, cotton seed, sesamum, *til*, rape seed oils and such other oils as are used or are usable for the manufacture of hydrogenated vegetable oils popularly known as *vanaspati* ghee.

(*b*) Hydrogenation means the process of passing hydrogen through vegetable oils.

3. Prohibition of manufacture and import of hydrogenated vegetable oils.—It is hereby declared that it is expedient in the public interest that the manufacture and import in the Indian Union of hydrogenated vegetable oils, popularly known as *vanaspti* ghee, be prohibited and the same are hereby prohibited.

4. Punishment for manufacture or import of hydrogenated vegetable oils.—Any person who manufactures or imports or abets the manufacture or import of hydrogenated vegetable oils into the Indian Union shall be punished with imprisonment of either description for a term which may extend to one year.

5. Forfeiture of certain property used in the commission of the offence.—Whenever any offence relating to the manufacture or import of hydrogenated vegetable oils has been proved to have been committed, the court shall order that the machinery, utensils, receptacles, other instruments or articles, components or unfinished or finished goods and the imported vegetable oils, as the case may be, be forfeited to the Government.

6. Issue of search warrants, disposal of property seized and appeals.—(*1*) If a District Magistrate, Sub-Divisional Magistrate or Magistrate of the First Class specially empowered in this behalf, upon information and after such enquiry as he thinks necessary, has reason to believe that any place is being used for the manufacture of hydrogenated vegetable oils or for the deposit of imported hydrogenated vegetable oils, he may, by warrant, authorise any

Police officer, above the rank of a constable, to enter, with such assistance as may be required, such place and to search the same and take into possession any machinery, utensils, receptacles, other instruments or articles, components or unfinished or finished goods used for and connected with the manufacture of hydrogenated vegetable oils and the imported hydrogenated vegetable oils, as the case may be, in accordance with the general provisions of the Code of Criminal Procedure, 1898 (V of 1898) relating to searches, and make a report to the court how the warrant has been executed and what things or articles have been taken into possession.

(*2*) The court may make such orders as it thinks fit for the proper custody of the articles or things taken into possession on search pending the conclusion of the enquiry or trial, and after conclusion of the enquiry or trial, order the destruction, forfeiture, sale of any such articles or things, as the case may be, and in case the court finds that such articles or things were not used for or were not connected with the manufacture of hydrogenated vegetable oils or the stuff seized was not hydrogenated vegetable oil or was not imported, it shall order the return of such articles, things or goods to the person entitled to the possession thereof.

(*3*) Any person aggrieved by an order made under sub-section (*1*) may appeal against such order to the court to which appeals ordinarily lie from such subordinate court.

STATEMENT OF OBJECTS AND REASONS.

This Bill aims at prohibiting the manufacture and import of what is popularly known as *vanaspati* ghee. The stuff known as *vanaspati* ghee is in fact no ghee at all, but it is hydrogenated vegetable oil and that too of inferior quality from the point of nutrition. Usually groundnut or cotton seed oil and similar oils are used for the manufacture of *vanaspati* ghee. The process of hydrogenation, *i.e.*, passing hydrogen through vegetable oils solidifies these oils and imparts to them the texture, shape, consistency and flavour of ghee and thereby invests these oils with potential and potent capacity for being undetectably adulterated with pure ghee. The Ayurvedic science and the popular notions associate great potentialities of imparting vigour and strength to the human system with pure ghee and regard milk-ghee as *Amrit*.

In the last few years its manufacture has increased to an alarming extent and the manufacturing interests have become so powerful and

influential that in spite of its most baneful effects on the physical health, public morals and rural economy of the country, the Government has not been able to check its growth.

It has been proved by experiments carried on in Government Scientific Laboratories that its use is detrimental to health.

The demand in the country for prohibiting the manufacture and import of *vanaspati* ghee is very strong.

As the clauses are self-evident, no separate notes are necessary.

THAKUR DAS BHARGAVA.

A. BILL No. 72 OF 1949.

A Bill to provide for the punishment of tax evaders and blackmarketeers.

WHEREAS it is expedient and necessary to check the evil of evasion of taxation by fraud or falsehood as also the widespread practice of blackmarketing in this country;

It is hereby enacted as follows:—

1. **Short-title, extent and commencement.**—(*1*) This Act may be called the Punishment of Tax Evaders and Blackmarketeers Act, 19 .

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

2. **Definition.**—"Blackmarketing" for the purpose of this Act shall mean and include excessive price charged in buying, selling, giving loan, renting, leasing, pledging or mortgaging any goods, property in land or buildings, stocks, shares or debentures, dealings in which are regulated by the Government of India or any State therein; prices fixed in maximum or minimum distribution, use of consumption controlled by any system of rationing or quota, and such practices as premia or *Pugree* paid for lodging or house-room, furniture or utensils wherever rents for such house-room with or without furniture or utensils are controlled.

3. **Punishment for Tax-evasion and Blackmarketing.**—(*1*) Every person, found guilty of evading by false or misleading statements, or by fraudulent means, payment of taxation due from him as determined by appropriate authority shall be punishable with death or transportation for life.

(2) Every person found guilty of blackmarketing with intent to make for himself an excessive and undue profit or gain in buying and selling of goods or property, movable or immovable, shall be punishable with death or transportation for life:

Provided that no prosecution under this section shall be started except with the sanction of the Government of India.

STATEMENT OF OBJECTS AND REASONS.

The evil of evading taxation, particularly in respect of Income and Super Taxes, has in recent years attained such dimensions that a Special Commission of Investigation has had to be appointed by specific legislation to investigate such cases referred to the Commission by Government. The amount involved in such evasion of taxation has been estimated to aggregate several hundred crores of rupees, even if such amounts are considered only since the 1st of April 1945. Most of this evasion is effected by fraud, falsehood or corruption and bribery. The money thus kept away from the public exchequer is responsible in a large degree for progressive rise in prices and other evils characterising Indian economy today. Under these circumstances it is necessary and expedient to provide for effective and deterrent punishment of those found guilty of such offences.

Similarly, the evil of blackmarketing prevails on a large scale, and results in intensive exploitation of the ignorant, helpless and backward masses. All the measures of control or rationing tend to be defeated or circumvented by the blackmarketeer. Evils of corruption and bribery result from this source on a large scale; and the profit made in such market is a fruitful occasion for evasion of taxation. It is equally imperative, therefore, to provide for prompt and deterrent punishment of those found guilty of such practices.

K. T. SHAH.

A. BILL No. 73 OF 1949.

A Bill to provide for protection, maintenance, custody, education and employment of children.

WHEREAS it is expedient and necessary to provide for protection, maintenance, custody, education and employment of uncared for children and young persons so as to save them from moral and material abandonment and exploitation;

It is hereby enacted as follows :—

1. Short title, extent and commencement.—(*1*) This Act may be called the Children's Protection Act, 19 .

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "a child" means any person not above the age of fourteen;

(*b*) "parent" means father or mother including a step-father and step-mother;

(*c*) "guardian" means any person who is, for the time being, in actual charge, custody or control of the child or young person;

(*d*) "young person" means any person who is above fourteen years of age but not above eighteen;

(*e*) "prescribed" means prescribed by rules made under this Act.

3. Interrogation of children or young persons loitering, begging or vagabonding in public places.—It shall be lawful for any Magistrate, a Member of the Provincial or Central Legislature, a police constable and any other person as may be prescribed to interrogate any child or young person found loitering or begging or vagabonding in any public street, or at any railway station or in or near any public place, to bring him before a Magistrate.

4. Registration of uncared for children or young persons.—If it is found that a child or a young person is not being maintained or looked after or otherwise provided for in any reasonable manner or is being used for earning money by any means other than regular employment, he shall at once be registered as an uncared for child or young person.

5. Release of children or young persons on parent or guardian giving an undertaking.—In every case where the child or young person has a parent or a proper guardian prepared to look after him, the child or young person may be released on such parent or parents or guardian or guardians giving an undertaking in writing, with one respectable surety, that—

(*i*) the child or the young person will not be permitted to loiter any further,

(*ii*) he will be provided with adequate food and clothing at the house and supervised,

(*iii*) he shall be enrolled as a student in some school as far as possible, and

(*iv*) if the circumstances of the family demand that he should be employed, he is in regular employment of some person whose name and status shall be intimated to a police station from time to time together with the wages or salary received and a statement of the nature of work the child or the young person is required to do.

6. **Defaulting parent or guardian to execute a bond.**—The parent or guardian, who fails to carry out or act upto the above undertaking in any particular, may be required to execute a bond in a sum not exceeding five hundred rupees with one surety in the like sum.

7. **Penalty for subsequent failure by parent or guardian.**—On subsequent failure, the parent or guardian, besides being liable to be punished with forfeiture of the bond, shall be liable to fine which may extend to two hundred and fifty rupees.

8. **Provincial Government to make arrangements for education, employment and care of uncared for children or young persons.**—Every child or young person, for whom no possibility of adequate maintenance and care appears available, shall be registered as an uncared for child or young person, as the case may be, and it shall be the duty of the Provincial Government, with the assistance of the Central Goverement if possible to make adequate arrangements for his education, employment and care.

9. **Return of enrolled child or young person to his parent or guardian.**—Any child or young person so enrolled and admitted in a public institution for purposes of employment, education or otherwise, may be handed over to his parent or guardian on his paying the cost of his maintenance to Government and depositing a sum not exceeding five hundred rupees as an undertaking to look after the child or young person adequately in the future.

10. **Right of Government to recover expenses in fit cases.**—It shall be lawful for any Provincial or State Government to recover, in a fit case, the expenditure incurred on the education and maintenance of the child or the young person, wherever his parent, guardian or a near relation is capable of paying the same.

11. Arrest of escaped children or young persons.—It shall be lawful for any police officer or constable to arrest without a warrant any child or young person who has escaped from the public institution to which he was admitted.

12. A child or young person of criminal tendencies to be kept separately.—A child or a young person guilty of more than one attempt to run away from such an institution, or one who has manifested any definite criminal tendencies, shall be kept separately from other children.

13. Employment, etc., of a child or young person to contribute towards his maintenance and education.—It shall be lawful for any Provincial, State or Central Government to put such a child or a young person to any employment, teach him any course of study or vocation or calling or in any other manner to utilize him so as to, by his efforts and work, contribute towards his own maintenance and education.

14. Government not to make profit.—No Government shall, however, make any profit as a result of the work and labours of any child or young person admitted to State custody.

15. Power to make rules.—The Central Government may make rules for the purpose of giving effect to the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS.

I believe it is the experience of everyone how children and young persons of all ages are found loitering in public streets, near cinema houses and theatres, at railway stations, and in public places without any work, very shabily, if at all clad and living a life which is a matter of shame and disgrace to the whole Indian nation. Such valuable human material is not only being wasted on a very large scale but the fact that it is not possible to make any arrangements or provide for their education and maintenance or even supervision of any sort has contributed to encourage them at this early age to fall a prey to bad and unsocial habits so as to make them not only potential but often real enemies of Society. The provisions in the above Bill are designed to meet his unbearable situation. The Bill does place upon the provincial, State and Central Governments the responsibility of looking after these children, but it is a responsibility which, I believe, no Government would like to avoid. The sooner it is recognized the better it would be for these innumerable children

and young persons as well as the well-being and reputation of the Indian Nation. I do not expect, if the provisions are properly enforced, the cost would be exhorbitant. In any case the value of good results flowing from it will far exceed the cost borne by all the Governments.

We have rightly included the following in the Directive Principles of State Policy in the Constitution that we are adopting.

"Article 31. The State shall, in particular, direct its policy towards securing—

* * * *

(vi) that childhood and youth are protected against exploitation and against moral and material abandonment."

My Bill seeks to secure the early realization of this objective. I am aware that some Provinces have children's Acts. But so far as the purpose embodied in the above Bill is concerned they are a dead letter.

P. S. DESHMUKH.

A. BILL No. 74 OF 1949.

A Bill to establish a Council of the Press of India to safeguard the freedom of the Press.

WHEREAS it is expedient to safeguard the freedom of the Press, to encourage the sense of public service amongst those who are engaged in the profession of journalism and to prevent the growth of monopolistic tendencies in the control and management of the Press in in this country;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(*1*) This Act may be called the Council of the Press of India Act, 19 .

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Press" means newspapers, magazines and periodicals other than those employed for sports and entertainments only, published in this country.

(*b*) "Council" means the Council of the Press of India constituted under this Act.

(*c*) "Monopolistic" means that no person shall hold the ownership of more than one newspaper and one periodical or one magazine.

3. Council of the Press of India.—The Government of India shall immediately establish a Council, as hereinafter provided, called the Council of the Press of India.

4. Composition of the Council.—The Council shall consist of twenty members nominated by the Government in the first instance as under:—

(i) six members from the proprietors of the Press,

(ii) eight members from editors, journalists and subordinate editorial staff,

(iii) four members from the members ot the Central Legislature, and

(iv) two members from outside other than those mentioned in clauses (i) to (iii).

One of the members of the Council shall be appointed as the President of the Council, by the Government in the first instance.

5. Duration of the Council and re-nomination of old members.—(1) The Council, in the first instance, shall be constituted for a period of three years. The Government shall after the expiry of every three years constitute a new Council.

(2) Members who have served in one Council may be re-nominated in subsequent Councils.

6. Objects of the Council.—The object of the Council shall be—

(i) to safeguard the freedom of the Press;

(ii) to encourage the sense of public service amongst those who are engaged in the profession of journalism; and

(iii) to prevent the growth of monopolistic tendencies in the management and control of the Press in India.

7. Power to make rules.—(1) The Council may, from time to time, make rules to carry into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely :—

(a) for keeping under review any development likely to restrict supply of information of public interest and importance ;

(b) for building up a high professional standard in journalism ;

(c) for receiving and considering complaints about the Press ;

(d) for keeping under review any development in Press which may tend towards monopoly ;

(e) for setting up proper methods for imparting good training for journalism ;

(f) for setting up proper methods of recruitment, pay, provident fund, pension and leave scheme for the staff employed in the Press ;

(g) for election of members of the Council ;

(h) for publishing periodical reports recording its work and reviewing from time to time the various developments in the Press ; and

(i) for investigating and reporting on the membership of any company responsible for the publication of the newspaper or periodical, for the purpose of determining the true persons who are financially interested in the company, and materially influence the policy of the company.

8. Council to submit report to Government.—The Council shall submit to the Government, every year a report recording its own working and a report regarding the Press of India with special reference to ownership and control of important newspapers and periodicals in this country, external influence, if any, on the policy of the Press, degree of concentration of ownership of the Press, together with their recommendations.

STATEMENT OF OBJECTS AND REASONS.

The democratic form of society requires that its members should take an active and intelligent part in the affairs of the community. Therefore it is essential that all members of the community should be supplied with clear and true accounts of events that take place around them and elsewhere, their background and causes, and an

impartial criticism on those matters. The responsibility for fulfilling this need has been to some extent carried out. In view however of this importance of the Press in the society, and also of the changed conditions and time, it is considered necessary to safeguard the freedom of the Press, to encourage a keen sense of public responsibility amongst all those who are engaged in the profession of journalism. It is also equally essential that only people who are properly trained and equipped enter into the profession. Moreover, in recent years, it is noticed that newspapers and periodicals in this country are gradually coming into the hands are under the influence of a particular class of people or being concentrated into a fewer and fewer hands. Independent newspapers are brought over by rich businessmen owning newspapers in different towns who dictate their own policy and contents. It is therefore most desirable that a proper check is put on such anti-social tendencies and the present lot of those who have entered in the profession of journalism is improved. With this object in view this Bill is proposed.

R. K. SIDHVA.

A. Bill No. 76 of 1949.

A Bill to make provision for employment and training for employment and to establish a comprehensive youth employment service.

Whereas it is expedient to make provision relating to employment and training for employment and to provide for the establishment of a comprehensive Youth Employment Service and for purposes connected therewith;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(*1*) This Act shall be called the Training and Employment Act, 195 .

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. Providing proper facilities for employment of persons.—Subject to the provisions of this Act, it shall be the duty of the Ministries of Labour and Education—

(i) to provide such facilities and service as may be considered expedient for the purpose of assisting persons to select, to fit

themselves for and to obtain and retain, employment suitable to their age and capacity;

(ii) to assist employers to obtain suitable employees; and

(iii) generally to promote employment in accordance with the requirements of the community so as to attain thereby a higher standard of living for the whole community.

3. Appointment of Advisory Committees.—(*1*) The Ministries concerned may, for the purpose of advising and assisting them in the discharge of their functions, appoint such separate or joint Advisory Committees as they may think fit for the whole of India or any part thereof.

(*2*) The Ministries of Labour and Education shall make regulations with respect to the constitution and functions of any of the Advisory Committees appointed under sub-section (*1*).

4. Establishment of Employment Exchanges.—(*1*) The Ministry of Labour may establish and maintain in such places as it thinks fit Employment Exchanges, that is to say offices or places for the collection and furnishing of information either by the keeping of registers or otherwise respecting persons who seek to engage employees and persons who seek employment.

(*2*) Without prejudice to sub-section (*1*), the Ministries may make such arrangements which they deem expedient for the collection and furnishing of information for providing advice, guidance and other services to persons of any class (whether employed or not) for any of the purposes mentioned in section 2 of this Act.

5. Provision of Funds.—The Minister or Ministers concerned may provide in the annual budget such sums of money as may be needed for the fulfilment of the purposes of this Act.

6. Contribution towards the expenditure incurred by private bodies or any local authority.—The Minister or Ministers may defray or contribute towards the expenditure incurred by any organization, society or Provincial, State, or any other local authority whatsoever, towards their funds provided the Ministries are convinced that these contributions shall be spent for the purposes mentioned in section 2 of this Act.

7. Management of Employment Exchanges.—The Ministers may make regulations with respect to the management of all Employment Exchanges provided by them under this Act and otherwise with respect to the exercise of their functions thereunder.

8. Right of persons to refuse employment found through any Employment Exchange.—No person shall be disqualified or otherwise prejudiced in respect of facilities provided at any Employment Exchange on account of his refusal to accept employment found for him through an Employment Exchange if the ground of his refusal is that a trade dispute which affects the trade exists or that the wages offered are lower than those current in the trade in the district where the employment is found.

9. Provision for Compulsory Training Courses.—The Minister or Ministers may provide such training courses for persons who are said to be communists whether employed or not and who are above the age of compulsion, as he or they thinks or think necessary or expedient for increasing the efficiency, knowledge, technical skill or capacity of such persons. Either of the Ministers may, by order in writing, compel any child or young person declared to be destitute, delinquent or uncared for under any law for the time being in force to join any training course for such length of time as may be indicated, for the purpose either for getting trained or for any other purpose.

10. Maintenance of Register of Persons seeking employment and publications of figures of persons employed.—It shall be the duty of the Government to maintain in detail a Register of all persons who are seeking employment and the figures of persons employed shall be published in the official Gazette at least once in two weeks at regular intervals.

11. Implementation of schemes of training in co-operation with local authorities or private bodies.—Any scheme of training or employment may be worked through, or in co-operation with any State Government or local authority or a recognized private organization.

STATEMENT OF OBJECTS AND REASONS.

Although Employment Exchanges have come into being as a result of the war and they have since been continued, there remains much to be done in giving them a proper shape and status in the social and economic life of the country. In the second place, there is a great need of increased facilities of training in the various arts, crafts and industries. Although the Ministry of Labour is attending to this, there is lack of co-ordination between this Ministry and Ministry of Education. In fact the Ministry of Education appears to have

nothing to do with this matter. The Bill, therefore, seeks to remedy this unsatisfactory state of affairs. The third object in view is to place greater emphasis on this important work and to arouse governmental as well as popular interest.

P. S. DESHMUKH.

The following Bill was introduced in the Constituent Assembly of India (Legislative) on the 17th December, 1949 :—

A. BILL No. 77 OF 1949.

A Bill to amend the Rehabilitation Finance Administration Act, 1948.

WHEREAS it is expedient to amend the Rehabilitation Finance Administration Act, 1948 (XII of 1948), for the purposes hereinafter appearing;

It is hereby enacted as follows :—

1. Short title.—This Act may be called the Rehabilitation Finance Administration (Amendment) Act, 1949.

2. Amendment of Section 1, Act XII of 1948.—In section 1 of the Rehabilitation Finance Administration Act, 1948 (hereinafter referred to as the said Act), for sub-secaion (2) the following sub-section shall be substituted, namely :—

"(2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act."

3. Amendment of Section 2, Act XII of 1948.—In section 2 of the said Act,—

(*1*) in clause (*d*),—

(*a*) in sub-clause (*i*), for the words "outside India," the words "now forming part of Pakistan" shall be substituted; and

(*b*) in sub-clause (*ii*), for the words "outside India," the words "in any area now forming part of Pakistan" shall be substituted; and

(2) for clause (e), the following clause shall be substituted, namely:—

(e) "loan" means a sum of money advanced by the Administration—

(i) to a displaced person for the purpose of any business or industry in which he is engaged or intends to engage himself, or

(ii) in respect of any business or industry, a substantial portion of which is owned by displaced persons; and'

4. Amendment of Section 3, Act XII of 1948.—In sub-section (1) of section 3 of the said Act, the following words shall be added at the end, namely:—

"or to any business or industry, a substantial portion of which is owned by displaced persons."

5. Amendment of Section 4, Act XII of 1948.—In section 4 of the said Act, in clauses (b) and (c), for the word "three" the word "four" shall be substituted.

6. Amendment of Section 10, Act XII of 1948.—In section 10 of the said Act,—

(i) the words "and with the prior sanction of the Central Government" shall be omitted; and

(ii) to that section the following proviso shall be added, namely:—

"Provided that the appointment and the fixation of the salary, allowances and other conditions of service of the Deputy Chief Administrator and such other officers as may be prescribed by the Central Government, shall be subject to the previous sanction of that Government."

7. Amendment of Section 11, Act XII of 1948.—In sub-section (2) of section 11 of the said Act, for the words "All moneys belonging to the Administration," the words "Subject to any regulations that may be made in this behalf, all moneys belonging to the Administration which are not immediately required by the Administration for any purpose" shall be substituted.

8. Amendment of Section 16, Act XII of 1948.—In sub-section (1) of section 16 of the said Act, for the words and figures "section 144 of the Indian Companies Act, 1913 (VII of 1913)," the words and figures "the Chartered Accountants Act, 1949 (XXXVIII of 1949)" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to increase the number of official and non-official members of the Rehabilitation Finance Administration in order to secure wider representation for interests concerned, and to enable the Administration to grant loans to business concerns in which a substantial number of displaced persons are interested. The Bill also provides for the extension of the Act to Acceding States and for more practicable and efficient arrangements regarding recruitment of staff and custody of funds of the Administration.

JOHN MATTHAI.

NEW DELHI;

The 9th December, 1949.

The following Bill was introduced in the Constituent Assembly of India (Legislative) on the 20th December 1949 :—

A. *BILL No. 79 OF 1949.

A Bill to amend the Banking Companies Act, 1949.

WHEREAS it is expedient to amend the Banking Companies Act, 1949 (X of 1949), for the purposes hereinafter appearing;

It is hereby enacted as follows :—

1. **Short title.**—This Act may be called the Banking Companies (Amendment) Act, 1949.

2. **Amendment of section 1, Act X of 1949.**—In the Banking Companies Act, 1949 (hereinafter referred to as the said Act), in sub-section (*2*), for the words "has power to make laws," the words and figures "has power on the 1st day of December, 1949, to make laws" shall be substituted.

3. **Substitution of "outside India" for "elsewhere than in a Province of India", etc., in certain sections of Act X of 1949.**—In the said Act, wherever an expression mentioned in the first column of the Table hereinunder printed occurs, otherwise than in section 1, unless that

*The Governor-General has been pleased to give the previous sanction required by section 153 of the Government of India Act, 1935, to the introduction in the Legislature of this Bill.

expression is expressly directed to be otherwise amended in this Act, there shall be substituted therefor the expression set opposite to it in the second column of that Table.

TABLE.

1	2
in a province of India in any province of India in the Provinces of India	..... in India.
elsewhere than in a Province of India outside the Provinces of India	.....outside India.

4. Amendment of section 3, Act X of 1949.—In section 3 of the said Act, for the word "Province" the word "part" shall be substituted.

5. Amendment of section 5, Act X of 1949.—In section 5 of the said Act,—

(*i*) after clause (*g*) of sub-section (*1*), the following clause shall be inserted, namely :—

"(*gg*) 'India' means the Provinces and States to which this Act extends ;";

(*ii*) sub-section (*2*) shall be omitted.

6. Amendment of section 11, Act X of 1949.—In section 11 of the said Act, the *Explanation* to sub-section (*3*) shall be numbered as *Explanation 1*, and, after that *Explanation* as so numbered, the following *Explanation* shall be inserted as *Explanation 2*, namely :—

"*Explanation 2.*—In this sub-section, all references to a Province shall be construed as including a reference to every Acceding State to which this Act extends."

7. Amendment of section 23, Act X of 1949.—In section 23 of the said Act, for the words "No banking company shall open a new place of business or change, otherwise than within the same city, town or village, the location of an existing place of business without obtaining the prior permission in writing of the Reserve Bank", the following words shall be substituted, namely :—

"No banking company shall open a new place of business in any part of India or change, otherwise than within the same city,

town or village, the location of an existing place of business situated in any part of India, and no banking company incorporated in India shall open a new place of business outside India or change, otherwise than within the same city, town or village in any country or area outside India, the location of an existing place of business situated in that country or area without first obtaining the prior permission in writing of the Reserve Bank :".

8. Amendment of section 25, Act X of 1949.—In section 25 of the said Act, for clause (*a*) of sub-section (*3*), the following clause shall be substituted namely :—

"(*a*) "assets in India" shall be deemed to include export bills drawn in, and import bills drawn on, and payable in India and expressed in such currencies as the Reserve Bank may from time to time approve in this behalf and also such securities as the Reserve Bank may approve in this behalf, notwithstanding that all or any of the said bills or securities are held outside India."

9. Insertion of new section 44A in Act X of 1949.—After section 44 of the said Act, the following section shall be inserted, namely :—

"44A. *Procedure for amalgamation of banking companies.*—(*1*) Notwithstanding anything contained in any law for the time being in force, no banking company shall amalgamate itself with another banking company, unless a scheme containing the terms of such amalgamation has been placed in draft before the shareholders of each of the banking companies concerned separately, and approved by a resolution passed by a majority of the shareholders, representing two-thirds in value of the paid-up capital of each of the said companies, at an extraordinary general body meeting called for the purpose.

(*2*) Notice of every such meeting as is referred to in sub-section (*1*) shall be given to every shareholder of the banking company concerned, in accordance with its articles of association, indicating the time, place and object of the meeting and shall also be published once a week for three consecutive weeks in some newspaper circulating in the locality where the registered office of the banking company concerned is situated.

(*3*) If the scheme of amalgamation is approved by the requisite majority of members present at the meeting either in person, or by a proxy in cases where voting by proxy is allowed, it shall be submitted to the Reserve Bank for sanction and, on

receipt of such sanction, shall be binding on the banking companies concerned and on all the members thereof.

(4) Any shareholder, who has voted against the scheme of amalgamation at the meeting or has given notice in writing at or prior to the meeting to the company or to the presiding officer of the meeting that he dissents from the scheme of amalgamation, shall be entitled to claim from the banking company concerned, in respect of the shares held by him in that company, their market value as on the date immediately prior to the passing of the resolution approving of the scheme of amalgamation, and where there is no market value for such shares, such value as may be arrived at by agreement between the banking company and the dissenting shareholder:

Provided that, if the banking company and the dissenting shareholder do not agree as to the value to be paid for the shares of the dissenting shareholder, the dispute shall be referred by the banking company or the dissenting shareholder to the Reserve Bank for decision and the decision of the Reserve Bank as to the value of the shares to be paid to the dissenting shareholder shall be final for all purposes.

(5) Where the terms of any scheme of amalgamation between two or more banking companies have been sanctioned by the Reserve Bank as aforesaid, the board of directors of each of the banking companies concerned shall have power to enter into all such transactions with the other banking company on behalf of their respective shareholders as may be necessary to secure that the amalgamation shall be fully and effectually carried out and that the rights and liabilities of the members in the amalgamated banking company are safeguarded in terms of the scheme of amalgamation.

(6) Where the board of directors of each of the amalgamating banking companies has by a resolution passed in this behalf declared that all acts and things to be done to give effect to the amalgamation have been done and an affidavit to that effect has been sworn by a responsible officer of each of the banking companies concerned and filed with the registrar, the amalgamation shall become complete, and the registrar shall thereupon strike off the name of that banking company which has ceased to function in its original name.

(7) A copy of every affidavit filed under sub-section (6) shall also be forwarded to the Reserve Bank."

10. Substitution of new section for section 45, Act X of 1949.—For section 45 of the said Act, the following section shall be substituted namely :—

"45. *Restriction on compromise or arrangement between banking company and creditors.*—Notwithstanding anything contained in any law for the time being in force, no Court shall sanction a compromise or arrangement between banking company and its creditors or any class of them or between such company and its members or any class of them unless the compromise or arrangement is certified by the Reserve Bank as not being detrimental to the interests of the depositors of such company."

11. Insertion of New Part IIIA in Act X of 1949.—In the said Act after Part III, the following shall be inserted as Part IIIA, namely :—

"PART IIIA.

SPECIAL PROVISIONS FOR SPEEDY DISPOSAL OF WINDING UP PROCEEDINGS.

45A. *Court defined.*—In this Part and in Part III, "Court" means the High Court exercising jurisdiction in the place where the registered office of the banking company which is being wound up is situated or, in the case of a banking company incorporated outside India which is being wound up, where its principal place of business is situated, and notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), or in any notification, order or direction issued thereunder or in any other law for the time being in force, no other Court shall have jurisdiction to entertain any matter relating to or arising out of the winding up of a banking company.

45B. *Power of Court to decide all claims by or against banking companies.*—(*1*) Notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), or in any other law for the time being in force, the Court shall have full power to decide all claims made by or against any banking company (including claims by or against any of its branches in India), and all questions of priorities and all other questions whatsoever, whether of law or fact, which may relate to or arise in the course of the winding up of the banking company coming within the cognizance of the Court.

(2) There shall be a right of appeal from every order or decision made under this section which, so far as regards the Court expressing it, conclusively determines the rights of the parties with respect to any matter in controversy, and the Court may make rules prescribing the manner in which and the conditions subject to which any such appeal may be filed and heard.

(3) Subject to the provisions of sub-section (2) and notwithstanding anything contained in any other law for the time being in force, every such order or decision shall be final and binding for all purposes as between, on the one hand, the banking company and, on the other hand, all persons who are parties thereto and all persons claiming through or under them or any of them.

45C. *Special provisions for punishing offences in relation to companies being wound up* (1) Notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), the Code of Criminal Procedure, 1898 (Act V of 1898), or in any other law for the time being in force, the Court may, if it thinks fit, take cognizance of and try in a summary way any offence alleged to have been committed by any person who has taken part in the formation or promotion of the banking company which is being wound up or any past or present director, manager or officer thereof:

Provided that the offence is one punishable under the India Companies Act, 1913 (VII of 1913), with imprisonment for a term which does not exceed two years, or with fine which does not exceed one thousand rupees.

(2) In every case tried summarily under sub-section (1), the Court—

(a) need not summon any witness, if it is satisfied that the evidence of such witness will not be material,

(b) shall not be bound to adjourn a trial for any purpose unless such adjournment is, in the opinion of the Court, necessary in the interests of justice,

(c) shall, before passing sentence, record judgment embodying the substance of the evidence and also the particulars specified in section 263 of the Code of Criminal Procedure, 1898 (Act V of 1898), so far as that section may be applicable,

and nothing contained in sub-section (2) of section 262 of the Code of Criminal Procedure, 1898, shall apply to any such trial.

(*3*) All offences in relation to winding up alleged to have been committed by any person specified in sub-section (*1*) which are punishable under the Indian Companies Act, 1913 (VII of 1913), and which are not tried in a summary way under sub-section (*1*) shall, notwithstanding anything to the contrary contained in that Act or the Code of Criminal Procedure, 1898 (Act V of 1898), or in any other law for the time being in force, be taken cognizance of and tried by a Judge of the Court other than the Judge for the time being dealing with the proceedings for the winding up of the banking company.

(*4*) Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1898 (Act V of 1898), the Court shall take cognizance of any offence under this section without the accused being committed to it for trial and all such trials shall be without the aid of a jury.

45D. *Reserve Bank may tender advice in winding up proceedings.*—Where in any proceeding for the winding up of a banking company in which any person other than the Reserve Bank has been appointed as the official liquidator the Court has directed the official liquidator to obtain the advice of the Reserve Bank on any matter (which it is hereby empowered to do), it shall be lawful for the Reserve Bank to examine the records of any such proceeding and tender such advice on the matter as it may think fit.

45E. *District Magistrate to assist official liquidator in taking charge of property of banking company being wound up.*—(*1*) For the purpose of enabling the official liquidator to take into his custody or under his control, all property, effects and actionable claims to which a banking company, which has been ordered to be wound up, is or appears to be entitled, the official liquidator may request in writing the District Magistrate, within whose jurisdiction any property, books of account or other document of such banking company may be situate or is to be found, to take possession thereof, and the District Magistrate shall on such request being made to him take possession of such property, books of account or other document and forward them to the official liquidator.

(*2*) For the purpose of securing compliance with the provisions of sub-section (*1*), the District Magistrate may take or cause to be taken such steps and use or cause to be used such force as may in his opinion be necessary.

45F. *Special period of limitation.*—Notwithstanding anything to the contrary contained in the Indian Limitation Act, 1908 (IX of 1908), or in any other law for the time being in force, in computing

the period of limitation prescribed for any suit or application by a banking company, the period of one year immediately preceding the date of the order for the winding up of the banking company shall be excluded."

12. Transfer of pending proceedings in winding up to the Court exercising jurisdiction under this Act.—Where any proceeding, for the winding up of a banking company or any other proceeding, whether civil or criminal, which has arisen out of or in the course of such winding up, is pending in any Court immediately before the commencement of this Act, it shall stand transferred on such commencement to the Court which would have had jurisdiction to entertain such proceeding if this Act had been in force on the date on which the proceeding commenced, and the Court to which the proceeding stands so transferred shall dispose of the proceeding as if this Act and the amendments made thereby were applicable thereto.

13. Repeal of Ordinance XXIII of 1949.—(*1*) The Banking Companies (Amendment) Ordinance, 1949, is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS.

The Banking Companies (Amendment) Ordinance, 1949 (No. XXIII of 1949) containing special provisions for the speedy disposal of winding up proceedings of banking companies in the interests of creditors and public morality was promulgated by the Governor-General on the 19th September, 1949. The Bill seeks to incorporate these provisions in the Banking Companies Act, 1949, on a permanent basis.

2. In addition to the above, the Bill seeks to amend the Banking Companies Act, 1949, for the following purposes :—

(*i*) to incorporate special provisions for facilitating quick amalgamations between banking companies ;

(*ii*) to empower the Reserve Bank to control opening of branches by Indian banks in foreign countries ;

(*iii*) to provide that for the purposes of section 25 of the Act "assets in India" shall be deemed to include export bills drawn in and import bills drawn on and expressed in such currencies as the Reserve Bank may from time to time approve in this behalf and also such securities as the Reserve Bank may approve in this behalf, including bills and securities held outside India.

JOHN MATTHAI.

NEW DELHI;
The 7th December, 1949.

A. BILL No. 81 OF 1949.

A Bill to provide for the expulsion from Assam of undesirable immigrants.

WHEREAS it is expedient to provide for the expulsion from Assam of undesirable immigrants;

It is hereby enacted as follows:—

1. Short title and extent.—(*1*) This Act may be called the Undesirable Immigrants (Expulsion from Assam) Act, 1949.

(*2*) It extends to the whole of India.

2. Power to order expulsion from Assam of undesirable immigrants.—If the Central Government is satisfied that any person, having been ordinarily resident in any part of Pakistan, has, whether before or after the commencement of this Act, come into Assam and that his stay in that Province is detrimental to the interests of India, the Central Government may by order—

(*a*) direct that person to remove himself from the Province of Assam within such time and by such route as may be specified in the order; and

(*b*) give such further directions in regard to his removal from Assam as it may consider necessary or expedient.

3. Delegation of power.—The Central Government may, by notification in the official Gazette, direct that the powers and duties conferred or imposed on it by section 2 shall, subject to such conditions, if any,

as may be specified in the notification, be exercised or discharged also by—

(*a*) any officer subordinate to the Central Government;

(*b*) the Provincial Government of Assam or any officer subordinate to that Government.

4. Power to give effect to orders, etc.—Any authority empowered by or in pursuance of the provisions of this Act to exercise any power may, in addition to any other action expressly provided for in this Act, take or cause to be taken such steps, and use or cause to be used such force, as may in its opinion be reasonably necessary for the effective exercise of such power.

5. Penalties.—Any person who contravenes or attempts to contravene, or abets a contravention of, any order made under section 2, or fails to comply with any direction given by any such order, shall be punishable with imprisonment which may extend to three years and shall also be liable to fine.

6. Protection to persons acting under this Act.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

STATEMENT OF OBJECTS AND REASONS.

During the last few months a serious situation had arisen from the immigration of a very large number of East Bengal residents into Assam. Such large migration is disturbing the economy of the Province, besides giving rise to a serious law and order problem. The Bill seeks to confer necessary powers on the Central Government to deal with the situation.

N. GOPALASWAMI.

NEW DELHI;

The 9th December, 1949.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

PART IV

Section—1-B.

ACTS OF THE CENTRAL LEGISLATURE AND ORDINANCES OF THE GOVERNOR-GENERAL WHICH APPLY TO MYSORE.

NOTIFICATIONS.

No. L.D. 990—Legis. 18-49-10, dated Bangalore, 21st January 1950.

Ordered that the accompanying Cinematograph (Second Amendment) Act, 1949, (Act No. LXII of 1949) which received the assent of Governor-General on 26th December, 1949 and was published in the Gazette of India, Extraordinary, dated the 28th December, 1949, be republished in the *Mysore Gazette* for general information.

By Order,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

ACT No. LXII OF 1949.

An Act further to amend the Cinematograph Act, 1918.

WHEREAS it is expedient further to amend the Cinematograph Act, 1918 (II of 1918), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. Short title and commencement.—(*1*) This Act may be called the Cinematograph (Second Amendment) Act, 1949.

(*2*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. Amendment of section 1, Act II of 1918.—In section 1 of the Cinematograph Act, 1918 (hereinafter referred to as the said Act), for

sub-sections (*2*) and (*3*), the following sub-section shall be substituted, namely :—

" (*2*) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt within this Act."

3. Amendment of section 2, Act II of 1918.—In section 2 of the said Act,—

(*i*) after the definition of ' adult ' the following definition shall be inserted, namely,

" Authority " means the Authority constituted by the Central Government under section 6 ; and

(*ii*) in the definition of " place ", for the words " tent or vessel ", the words " tent or any description of transport, whether by sea, land or air," shall be substituted.

4. Insertion of new section 2A in Act II of 1918.—After section 2 of the said Act, the following section shall be inserted, namely :—

"2A. *Rule of construction in the application of Act to Acceding States.*—In the application of this Act to any Acceding State, unless there is anything repugnant in the subject or context,—

(*a*) references to a Province or the Provincial Government shall be construed as references to that Acceding State or the Government of that Acceding State, as the case may be ;

(*b*) references to the District Magistrate shall be construed as references to the corresponding authority in the Acceding State ; and

(*c*) references to the official Gazette shall be construed as references to the corresponding official publication of that State."

5. Amendment of section 5, Act II of 1918.—For sub-sections (*2*) and (*2A*) of section 5 of the said Act, the following sub-sections shall be substituted, namely :—

" (*2*) The grant of every licence shall be subject to the conditions that the licensee will not exhibit, or permit to be exhibited, in such place—

(*a*) any film other than a film which has been certified by the Authority as suitable for unrestricted public exhibition or

for public exhibition restricted to adults, and which, when exhibited, displays the prescribed mark of that Authority, and has not been altered or tampered with in any way since such mark was affixed thereto ;

(*b*) any film which has been certified by the Authority as suitable for public exhibition restricted to adults to any person who is not an adult ;

(*c*) any film contrary to any directions that may be issued from time to time in this behalf by the Central Government under sub-section (*2A*),

and such conditions shall be deemed to be inserted in every licence.

(*2A*) The Central Government may from time to time issue directions to licensees generally, or to any licensee, in particular, for the purpose of regulating the exhibition of any film or class of films so that scientific films, films intended for educational purposes, films dealing with news and current events, documentary films or indigenous films secure an adequate opportunity of being exhibited."

6. Substitution of new sections for sections 6 to 9, Act II of 1918.—For sections 6, 7, 8 and 9 of the said Act, the following sections shall be substituted, namely :—

"6. *Certification of films.*—(*1*) The Central Government may, by notification in the official Gazette, constitute an Authority in the prescribed manner for the purpose of examining and certifying films as suitable for unrestricted public exhibition or for public exhibition restricted to adults, and prescribe the manner in which the Authority shall exercise the powers conferred on it by this Act.

(*2*) If the Authority after examination considers that a film is suitable for unrestricted public exhibition or that, although not suitable for such exhibition, it is suitable for public exhibition restricted to adults, it shall grant to the person applying for a certificate in respect of the film a "U" certificate in the former case and an "A" certificate in the latter case, and shall in either case cause the film to be so marked in the prescribed manner, and any such certificate shall, save as hereinafter provided, be valid throughout the territories to which this Act extends.

(3) If the Authority is of opinion that a film is neither suitable for unrestricted public exhibition nor for public exhibition restricted to adults, it shall inform the person applying for the certificate of its decision.

(4) Any person applying for a certificate, who is aggrieved by the decision of the Authority refusing to grant a certificate or to grant only an "A" certificate, may, within thirty days from the date of such decision, appeal to the Central Government, and the Central Government may, after such inquiry as it considers necessary, pass such orders thereon as it thinks fit.

(5) If the Central Government rejects an appeal on the ground that a film is neither suitable for unrestricted public exhibition nor for public exhibition restricted to adults, it shall, by notification in the official Gazette, direct that the film shall be deemed to be an uncertified film in the whole of the territories to which this Act extends.

(6) For the purpose of disposing of any appeal under this section, the Central Government may demand the exhibition of any film before any authority specified in this behalf.

(7) Notwithstanding anything contained in this Act, the Central Government may, of its own motion, by notification in the official Gazette, direct that—

(a) a certified film shall be deemed to be an uncertified film in the whole or any part of the territories to which this Act extends, or

(b) a film in respect of which a "U" certificate has been granted shall be deemed to be a film in respect of which an "A" certificate has been granted.

Explanation.—The grant of an "A" certificate in respect of any film shall not be deemed to prohibit the exhibition thereof to children below the age of three.

7. *Power of Provincial Government or local authority to suspend exhibition of films in certain cases.*—(1) The Provincial Government, in respect of the whole Province or any part thereof, and the District Magistrate or the Commissioner of Police, in respect of the district or town within his jurisdiction, may, if it or he is of opinion that any film, which is being publicly exhibited, is likely to cause a breach of the peace, by order suspend the exhibition of any film, and during such

suspension the film shall be deemed to be an uncertified film in the Province or the district or town, as the case may be.

(2) Where an order under sub-section (1) has been issued by a District Magistrate or a Commissioner of Police, a copy thereof, together with a statement of reasons therefor, shall forthwith be forwarded by the person making the same to the Provincial Government, and the Provincial Government may either confirm or discharge the order.

(3) No order made under this section shall remain in force for more than two months, but the Provincial Government may, if it is of opinion that any such order should continue in force for a further period, refer the matter to the Central Government for decision.

(4) On receipt of any reference under sub-section (3), the Central Government may, by notification in the official Gazette, direct that the period of suspension shall be extended by such further period as it thinks fit or that the film shall be deemed to be an uncertified film in the whole or any part of the territories to which this Act extends.

8. *Penalties.*—(1) If the owner or person in charge of a cinematograph uses the same or allows it to be used, or if the owner or occupier of any place permits that place to be used, in contravention of the provisions of this Act or the rules made thereunder, or of the conditions and restrictions upon, or subject to, which any licence has been granted under this Act, he shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues, and his licence, if any, shall be liable to be revoked by the licensing authority.

(2) The exhibition of a film contrary to any order or direction under sub-section (5) or sub-section (7) of section 6 or section 7 shall, in the area to which such order or direction relates, be deemed to be a contravention of the conditions mentioned in sub-section (2) of section 5 and shall be punishable as provided in this section.

(3) If any person is convicted of an offence punishable under this Act committed by him in respect of any film, the convicting Court may further direct that the film shall be forfeited to the Government.

9. *Power to make rules.*—(*1*) The Central Government may make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

(*a*) the manner in which the Authority shall be constituted;

(*b*) the delegation of any of the powers of the Authority to such person or persons as the Authority may nominate in this behalf;

(*c*) the procedure of the Authority for examining and certifying films as suitable for public exhibition, and all matters ancillary thereto and the fees to be levied by such Authority;

(*d*) the appointment of officers subordinate to the Authority and the regulation of the powers and duties of such officers;

(*e*) the conditions subject to which any certificate may be granted under this Act or the circumstances in which any certificate shall be refused;

(*f*) the manner in which any appeal under this Act may be preferred;

(*g*) any other matter which by this Act is to be prescribed.

(*3*) The Provincial Government may make rules to provide for the regulation of cinematograph exhibitions for securing the public safety.

(*4*) All rules made under this Act shall be published in the official Gazette, and on such publication shall have effect as if enacted in this Act.

(*5*) All rules made by the Central Government under this Act shall be laid before the Dominion Legislature as soon as may be after they are made.

10. *Power to give directions.*—The Central Government may give directions to any Provincial Government as to the carrying into execution in the Province of any of the provisions contained in this Act or of any rules or orders made thereunder.

11. *Power to exempt.*—The Central Government may, by order in writing exempt, subject to such conditions and restrictions as it may impose, any cinematograph exhibition or class of cinematograph exhibitions from any of the provisions of this Act or of any rule made thereunder."

K. V. K. SUNDARAM,
Secy. to the Govt. of India.

No. L.D. 997—Legis. 18-49-11, dated Bangalore, 21st January 1950.

Ordered that the accompanying Indian Railways (Amendment) Act, 1949 published in the *Gazette of India*, Extraordinary, dated the 24th December 1949, be republished in *Mysore Gazette* for general information.

By Order,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

Acts of the Dominion Legislature assented to by the Governor-General

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

New Delhi, the 24th December, 1949.

The following Acts of the Dominion Legislature received the assent of the Governor-General on the 21st December, 1949 and are hereby published for general information :—

ACT No. LVI OF 1949.

An Act further to amend the Indian Railways Act, 1890.

WHEREAS it is expedient further to amend the Indian Railways Act, 1890 (IX of 1890), for the purposes hereinafter appearing;

It is hereby enacted as follows :—

1. Short title and commencement.—(*1*) This Act may be called the Indian Railways (Amendment) Act, 1949.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, and different dates may be appointed for different provisions of this Act.

2. Omission of section 30, Act IX, of 1890.—In the Indian Railways Act, 1890 (hereinafter referred to as the said Act), section 30 shall be omitted.

3. Amendment of section 31, Act IX of 1890.—In section 31 of the said Act, for the words "the two last foregoing sections" the word and figures "section 28" shall be substituted.

4. Substitution of new section for section 32, Act IX of 1890.—For section 32 of the said Act, the following section shall be substituted, namely :—

"32. *Power of general controlling authority to fix terminal and other charges.*—The general controlling authority may, by general or special order, fix the rates of terminal and other charges for the whole or any part of a railway, and prescribe the conditions in which such rates will apply."

5. Substitution of new section for section 41, Act IX of 1890.—For section 41 of the said Act, the following section shall be substituted, namely :—

"41. *Complaints against a railway administration.*—(1) Any complaint that a railway administration—

(a) is contravening the provisions of section 28, or

(b) is charging station to station rates or wagon load rates which are unreasonsable or rates which are unreasonable owing to any condition attached to them regarding minimum weight, packing, assumption of risk or any other matter, or

(c) is levying charges (other than standardised terminal charges) which are unreasonable, or

(d) is unreasonably refusing to quote a new station to station rate, or

(e) has unreasonably placed a commodity in a higher clause, may be made to the Tribunal, and the Tribunal shall hear and decide any such complaint in accordance with the provisions of this Chapter.

(2) In the case of a complaint under clause (a) of sub-section (1),—

(i) whenever it is shown that a railway administration charges one trader or class of traders or the traders in any local area lower rates for the same or similar animals or goods, or lower rates for the same or similar services, than it charges to other traders or classes of traders, or to the traders in another local area, the burden of proving that such lower charge does not amount to an undue preference shall lie on the railway administration,

(ii) in deciding whether a lower charge does or does not amount to an undue preference, the Tribunal may, in addition to any other considerations affecting the case, take into consideration whether such lower charge is necessary in the interests of the public.

(3) In the case of a complaint under clause (d) of sub-section (1), the Tribunal may fix a new station to station rate.

(4) A complaint under this section may be made jointly against two or more railway administrations."

6. Amendment of section 47, Act IX of 1890.—In sub-section (1) of section 47 of the said Act, for the words "railway administered by the Government" the words "railway administered by the Central Government any Provincial Government or the Government of any Acceding State" shall be substituted.

7. Amendment of section 72, Act IX of 1890.—In section 72 of the said Act, sub-section (2) shall be omitted.

8. Insertion of new section after section 72, Act IX of 1890.—After section 72 of the said Act, the following section shall be inserted, namely :—

72A. *Execution of forwarding notes in respect of animals or goods carried on a railway.*—Any person delivering to the railway administration any animals or goods to be carried on a railway shall,—

(a) if the animals or goods are to be carried by a train intended solely for the carriage of goods, or

(b) if the goods are to be carried by any other train and consists of articles of any of the following categories, namely :—

(i) articles carried at owner's risk rates;

(ii) articles of a perishable nature;

(*iii*) articles mentioned in the Second Schedule;

(*iv*) articles defectively packed or in a defective condition;

(*v*) explosives and other dangerous goods,

execute a note (in this Act referred to as the forwarding note) in such form as may be prescribed by the railway administration and approved by the Central Government, in which the sender or his agent shall give such particulars in respect of the animals or goods so delivered as may be required."

9. Substitution of new section for section 73, Act IX of 1890.—For section 73 of the said Act, the following section shall be substituted, namely :—

"73. *Further provision with respect to the Liability of a railway administration as a carrier of animals.*—(*1*) The responsibility of a railway administration under section 72 for the loss, destruction or deterioration of any animal delivered to the administration for carriage by railway shall not exceed the amount respectively specified in column two against the item relating to the animal in column one of the First Schedule, unless the person delivering the animal to the railway administration declares in writing a higher value in the forwarding note and has paid or engaged to pay to the railway administration a percentage specified by it upon the excess of the value so declared over the respective sums mentioned in the second column of the said Schedule.

(*2*) Where such higher value has been declared, the railway administration may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

(*3*) Nothing contained in this section shall render the railway administration liable for any damage or loss arising from fright or restiveness of the animal."

10. Insertion of new sections after section 74, Act IX of 1890.—After section 74 of the said Act, the following sections shall be inserted, namely :—

"74A. *Liability of a railway administration for goods in defective condition or defectively packed.*—(*1*) When any goods tendered to a railway administration for carriage by railway—

(*a*) are in a defective condition as a consequence of which they are liable to deterioration, leakage, wastage or damage in transit, or

(*b*) are either defectively packed or packed in a manner not in accordance with the general or special order, if any, issued under sub-section, (2) and, as a result of such defective or improper packing, are liable to leakage, wastage or damage in transit,

and the fact of such condition or defective or improper packing has been recorded by the sender or his agent in the forwarding note, the railway administration shall not be responsible for any deterioration, leakage, wastage or damage, or for the condition in which such goods are available for delivery at destination, except upon proof of negligence or misconduct on the part of the railway administration or of any of its servants.

(*2*) The general controlling authority may, by general or special order, prescribe the manner in which goods tendered to a railway administration for carriage by railway shall be packed.

74B. *Liability of a railway administration for goods carried in open vehicles.*—When any goods which, under ordinary circumstances, would be carried in covered vehicles or vessels and would be liable to damage if carried otherwise, are, at the request of the sender or his agent recorded in the forwarding note, tendered for carriage by railway in open vehicles or vessels, the railway administration shall not be responsible for any destruction, deterioration or damage which may arise only by reason of the goods being so carried.

74C. *Liability of a railway administration for animals or goods carried at owner's risk rate.*—(*1*) When any animals or goods are tendered to a railway administration for carriage by railway and the railway administration provides for the carriage of such animals or goods either at the ordinary tariff rate (in this Act referred to as the railway risk rate) or in the alternative at a special reduced rate (in this Act referred to as the owner's risk rate), the animals or goods shall be deemed to have been tendered to be carried at owner's risk rate, unless the sender or his agent elects in writing to pay the railway risk rate.

(*2*) Where the sender or his agent elects in writing to pay the railway risk rate under sub-section (1), the railway administration shall issue a certificate to the consignor to that effect.

(*3*) When any animals or goods are carried or are deemed to be carried at owner's risk rate, a railway administration shall not be responsible for any loss, destruction or deterioration of or damage to such goods from any cause whatsoever except upon proof that such loss, destruction, deterioration or damage was due to negligence or

misconduct on the part of the railway administration or of any of its servants.

74D. *Burden of proving misconduct where goods carried at owner's risk rate are not delivered to the consignee or are pilfered in transit.*—Notwithstanding anything contained in section 74C,—

(*a*) where the whole of a consignment of goods or the whole of any package forming part of a consignment carried at owner's risk rate is not delivered to the consignee and such non-delivery is not proved by the railway administration to have been due to any accident to the train or to fire, or

(*b*) where, in respect of any consignment of goods or of any package which had been so covered or protected that the covering or protection was not readily removable by hand, it is pointed out to the railway administration on or before delivery that any part of such consignment or package had been pilfered in transit,

the railway administration shall be bound to disclose to the consignor how the consignment or package was dealt with throughout the time it was in its possession or control, but if negligence or misconduct on the part of the railway administration or of any of its servants cannot be fairly inferred from such disclosure, the burden of proving such negligence or misconduct shall lie on the consignor.

74E. *Liability of two or more railway administrations for through traffic,*—When any animals or goods tendered to a railway administration for carriage by railway have been booked through over the railways of two or more railway administrations or over one or more railway administrations and one or more transport systems not belonging to any railway administration, the person tendering the animals or goods to the railway administration shall be deemed to have contracted with each one of the railway administrations or the owners of the transport systems concerned, as the case may be, that the provisions of sections 73, 74A, 74B, 74C, 74D and 75 shall apply, so far as may be, in relation to the carriage of such animals or goods in the same manner and to the same extent as they would have applied if the animals or goods had been carried over only one railway administration:

Provided that—

(*i*) where there is a deviation in the route by which the animals or goods are to be carried, such deviation was due to a cause over which the railway administration, or the owner of the

transport system concerned, as the case may be, had no control;

(*ii*) for the purpose of making the provisions of section 74C or section 74D applicable, the benefit of the railway risk rate and the owner's risk rate was available in the alternative to the sender on each of the railway administrations or transport systems concerned at the time of the tender."

11. Amendment of section 75, Act IX of 1890.—In section 75 of the said Act,—

(*i*) in sub-section (1) for the words "to be declared or declared them at the time of the delivery of the parcel or package for carriage by railway and, if so required by the administration paid or engaged to pay a percentage on the value so declared by way of compensation for increased risk", the words "to be declared in writing or declared them in writing at the time of the delivery of the parcel or package for carriage by railway, and if so required by the administration, paid or engaged to pay in writing a percentage on the value so declared by way of compensation for increased risk" shall be substituted;

(*ii*) in sub-section (2), the words "and the burden of proving the value so declared to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation" shall be omitted.

12. Substitution of new section for section 76, Act IX of 1890.—For section 76 of the said Act, the following section shall be substituted, namely:—

"76. *Burden of proof in suits for compensation.*—In any suit against a railway administration for compensation for any delay, loss, destruction, deterioration or damage, the burden of proving—

(*a*) in the case of animals, the value thereof, or the higher value declared under section 73, and, where the animal has been injured, the extent of the injury; or

(*b*) in the case of any parcel or package the value of which has been declared under section 75, that the value so declared is its true value, shall lie on the person claiming the compensation, but, subject to the other provisions contained in this Act, it shall not be necessary for him to prove how the delay, loss, destruction, deterioration or damage was caused."

13. Insertion of new sections after section 82A, Act IX of 1980.—In Chapter VII of the said Act, after section 82A, the following sections shall be inserted, namely :—

"82B. *Claims Commissioners.*—The Central Government may, by notification in the official Gazette, appoint any person to be a Claims Commissioner for such local area as may be specified in the notification.

82C. *Application for compensation.*—(*1*) An application for compensation under section 82A arising out of any accident of the nature specified therein may be made—

(*a*) by the person who has sustained the injury or suffered any loss, or

(*b*) by any agent duly authorised by such person in this behalf, or

(*c*) where such person is a minor, by his guardian, and

(*d*) where death has resulted from the accident, by any dependant of the deceased.

(*2*) No application for compensation under this section shall be entertained unless it is made within three months of the occurrence of the accident, but the Claims Commissioner may on good cause shown allow any application to be made at any time within one year of such occurrence.

(*3*) If in an application for compensation under this section, any person makes a statement which is false and which he knows or believes to be false or does not belive to be true, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Explanation.—In this section, the word "dependant" has the meaning assigned to it in clause (*d*) of section 2 of the Workmen's Compensation Act, 1923 (VIII of 1923).

82D. *Procedure and powers of Claims Commissioners.*—(*1*) In inquiring into and determining any claim for compensation payable under section 82A, the Claims Commissioner may, subject to any rules that may be made in this behalf, follow such summary procedure as he thinks fit.

(*2*) The Claims Commissioner shall have all the powers of a Civil Court for the purpose of taking evidence on oath (which the Claims Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the discovery and production

of documents and material objects and the Claims Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (Act V of 1898).

(3) Subject to any rules that may be made in this behalf, the Claims Commissioner may, for the purpose of determining any claim for compensation choose one or more persons possessing special knowledge of any matter relevant to the inquiry to assist him in holding the inquiry.

82E. *Interim orders for compensation.*—(1) Where, in the opinion of the Claims Commissioner, circumstances exist which require relief to be afforded to an applicant for compensation immediately, he may, pending determination of the actual amount of compensation payable, direct the railway administration to deposit with him forthwith such sum as he considers reasonable for affording such relief:

Provided that the Claims Commissioner is satisfied, that—

(i) no grounds exist for doubting the correctness of the facts stated by the applicant;

(ii) on the facts so stated, if proved, the applicant would be entitled to compensation; and

(iii) the amount of compensation directed to be paid under this section is not likely to exceed the actual amount of compensation that may ultimately become payable.

(2) Any sum directed to be paid under sub-section (1) by way of *interim* payment shall be deducted from the amount of compensation that may ultimately become payable.

82F. *Liability to pay compensation, etc., to be decided by Claims Commissioners.*—(1) Any question as to the liability of the railway administration to pay compensation, under section 82A, or as to the amount thereof, or as to the person to whom such compensation is payable, shall be decided by the Claims Commissioner.

(2) Any person aggrieved by a decision of the Claims Commissioner refusing to grant compensation, or as to the amount of compensation granted to him, may prefer an appeal to the High Court having jurisdiction in the place where the accident occurred:

Provided that nothing in this sub-section shall be deemed to authorise the High Court to grant compensation in excess of the limit specified in section 82A.

(*3*) The period of limitation for an appeal under this section shall be ninety days.

(*4*) The provisions of section 5 of the Indian Limitation Act, 1908 (IX of 1908), shall be applicable to appeals under this section.

(*5*) Subject to the decision of the High Court in cases in which an appeal is preferred under sub-section (*1*), the decision of the Claims Commissioner on any question referred to in sub-section (*1*) shall be final and shall not be called in question in any Court.

82G. *Recovery and payment of compensation.*—(*1*) A railway administration shall comply with an order for compensation, including an *interim* order for compensation under section 82E forthwith by depositing the amount of the compensation with the Claims Commissioner.

(*2*) Where any compensation has been deposited as required by sub-section (*1*), the railway administration shall, notwithstanding anything in any other law for the time being in force, be discharged from all liability to any person whatsoever in respect of any compensation so deposited.

(*3*) Any compensation deposited with the Claims Commissioner under section 82E or this section shall, with the least possible delay, be paid to the applicant for compensation to whom it is payable.

(*4*) Where there are more applications than one for compensation, the compensation may be apportioned amongst the applicants in such manner as the Claims Commissioner thinks fit, or may be allotted to the applicant who in the opinion of the Claims Commissioner is best entitled thereto:

Provided that the Claims Commissioner shall in any case in which he proposes to proceed under this sub-section require as a condition precedent to the granting of compensation that the person to whom the compensation is to be paid shall give to the Claims Commissioner a bond with one or two sureties, or other sufficient security, for rendering an account of the compensation received by him and for indemnity of persons who may be entitled to the whole or any part of the compensation.

(*5*) The Claims Commissioner may, on application made to him by petition and on cause shown to his satisfaction, and upon such terms as he thinks fit, assign the bond or other security given under sub-section (*4*) to some proper person, and that person shall thereupon be entitled to sue thereon in his own name as if it had been originally given to him instead of to the Claims Commissioner, and to recover,

as trustee for all persons interested, such amount as may be recoverable thereunder.

82H. *Saving as to certain rights.*—Nothing contained in the foregoing sections relating to the right of any person to claim compensation under section 82A shall affect the right of any such person to recover any compensation payable under the Workmen's Compensation Act, 1923 (VIII of 1923), or any other law for the time being in force or under any contract or scheme providing for payment of compensation for death or personal injury or for damage to property or any sum payable under any policy of insurance.

82I *Bar of certain legal proceedings.*—No suit, procecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of sections 82A to 82H inclusive or of any rules made under section 82J.

82J. *Power to make rules.*—(*1*) The Central Government may, by notification in the official Gazette, make rules to carry out the objects of sections 82A to 82H inclusive.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(*i*) the qualifications and conditions of service of Claims Commissioners;

(*ii*) the nature of the injury for which and the rates at which compensation shall be payable;

(*iii*) the rates at which compensation shall be payable for death or total disablement;

(*iv*) the manner in which claims for compensation may be inquired into and determined by the Claims Commissioner;

(*v*) the matters in respect of which any person may be chosen to assist the Claims Commissioner under section 82D, and the functions exercisable by such person;

(*vi*) generally for the effective exercise of any powers conferred on the Claims Commissioner."

(*3*) All rules made under this section shall be laid before the Dominion Legislature as soon as may be after they are made."

14. Amendment of section 106, Act IX of 1890.—In section 106 of the said Act, for the words "ten rupees" the words "fifty rupees" shall be substituted.

15. Substitution of new section for section 114, Act IX of 1890.—For section 114 of the said Act, the following section shall be substituted, namely—

"114. *Penalty for transferring season ticket or any half of a return ticket.*—If a person sells or attempts to sell, or parts or attempts to part with the possession of, any season ticket or any half of a return ticket, in order to enable any other person to travel therewith, or purchases such season ticket or half of a return ticket, he shall be punishable with fine which may extend two hundred rupees, and if the purchaser of such season ticket or half of a return ticket, travels or attempts to travel therewith, he shall be punishable with an additional fine which may extend to the amount of the single fare for the journey authorised by the ticket."

16. Insertion of First Schedule in Act IX of 1890.—In the said Act, the following shall be inserted as the First Schedule, namely :—

"THE FIRST SCHEDULE.

(*See* section 73.)

Limits of responsibility of railway administration for loss, destruction or deterioration of animals when higher value has not been declared in the forwarding note.

(1) *Description of animals*	(2) *Limit of responsibility of railway administration.*
Elephants	Rs. 1,500 per head.
Horses	Rs. 750 per head.
Mules, horned cattle or camels	Rs. 200 per head.
Dogs, donkeys, gots, pigs, sheep or other animals not mentioned above, or birds.	Rs. 30 per head.

K. V. K. SUNDARAM,
Secretary.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

Reg. No. M. 1175

The Mysore Gazette

(PUBLISHED BY AUTHORITY)

EXTRAORDINARY

BANGALORE, THURSDAY, FEBRUARY 16, 1950.

PART IV

Section 1-C

NOTIFICATIONS, RULES, ORDERS, ETC., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

MYSORE PUBLIC SERVICE COMMISSION REGULATION, 1950.

No. L.D. 1088—Legis. 39-49-1, dated Bangalore, the 16th February 1950.

In exercise of the powers conferred by article 318 of the Constitution of India, the Rajpramukh of Mysore, His Highness the Maharaja, is pleased to make the following regulation :—

PART I

PRELIMINARY

1. (1) This regulation may be called the Mysore Public Service Commission Regulation, 1950.

(2) It shall come into force at once.

2. In this regulation, unless there is anything repugnant in the subject or context—

(a) "Constitution" means the Constitution of India ;

(b) "Commission" means the Mysore Public Service Commission established under the Constitution ;

(c) "Member" means a Member of the Commission and includes the Chairman thereof.

PART II

COMPOSITION, CONDITIONS OF SERVICE, ETC., OF THE COMMISSION AND ITS STAFF.

3. The Commission shall consist of a Chairman and two other Members.

4. There shall be paid to the Chairman a salary calculated at the rate of one thousand and five hundred rupees per mensem and to each of the other Members a salary calculated at the rate of one thousand and two hundred rupees per mensem.

Provided that a Member, who on the date of entering on his duties as such was in the service of the Government of the State, shall be paid the salary and allowances to which he would otherwise be entitled from time to time in such service;

Provided further that a Chairman or any other Member who is a retired Government servant shall not be entitled to draw a salary in addition to his pension, more than the salary fixed in this clause for a Chairman or Member as the case may be.

5. (1) A Member who on the date of entering on his duties as such was in a service of or held a post under the Union or a State shall, until he retires from such service or post, continue to be governed by the leave rules applicable to him in such service or post and his service as Member shall count for leave in accordance with those rules. After such retirement, he shall be governed in respect of leave by sub-clause (2) of this clause as if he were a Member who had entered on his duties as such immediately after such retirement.

(2) A Member who on the date of entering on his duties as such was not in the service of the Union or a State may be granted leave as follows:—

(a) Leave on leave salary equivalent to full pay up to one-eleventh of the period spent on duty as a Member, subject to a maximum of three months at any one time and subject to a maximum leave salary of one thousand and five hundred rupees per mensem in the case of the Chairman

and one thousand and two hundred rupees per mensem in the case of any other Member.

(*b*) Leave on medical certificate on leave salary equivalent to half pay up to a total period of two months.

(*c*) Extraordinary leave without allowances, subject to a maximum of two months at any one time.

Explanation.—More than one kind of leave mentioned in this clause may be granted in combination at any one time.

Provided that a Member who enters on his duties as such immediately after his retirement from a service of or a post under, the Union or a State shall be entitled to carry forward the leave which remained to his credit at the time of such retirement up to a maximum of six months expressed in terms of leave on average pay and to take that leave, on such terms and on such conditions as were admissible under the rules in accordance with which it was earned, in combination with any or all of the kinds of leave mentioned in this clause.

6. A member shall be entitled to travelling allowance for journeys made by him in the performance of his functions at the rates, and subject to the conditions, specified in the Mysore Service Regulations as in force from time to time.

For the purposes of the Mysore Service Regulations, the Chairman of the Commission shall be the head of a department in respect of other Members of the Commission.

7. No pension shall attach to the office of a Member as such, but in the case of a Member who at the date of his appointment was in the service of the Union or a State the period of his service as Member shall, until he retires from such service, count for pension under the rules applicable to the service to which he belongs. After such retirement he shall be entitled to the salary specified in clause 4 as if he were a Member who had entered on his duties as such immediately after such retirement.

8. There shall be a Secretary to the Commission who shall be appointed by the Commission with the previous approval of the Rajpramukh.

9. (1) There shall be paid to the Secretary, a monthly salary calculated at the scale of Rs. 300—25—500.

(2) The initial salary of a person appointed as Secretary to the Commission shall be fixed in accordance with the provisions of Mysore Service Regulations for the time being in force, and the previous sanction of the Rajpramukh shall be necessary for fixing the initial salary of any such person otherwise than in accordance with those rules.

(3) The Commission shall not, without the previous sanction of the Rajpramukh grant any premature increment of pay to a person holding the post of Secretary.

10. Subject to the provisions of clause 9, the Secretary to the Commission shall, in the matter of his pay, allowances including travelling allowances, leave, leave salary, pensions and other conditions of service be governed by the Mysore Service Regulations and the Public Servants' Conduct Rules for the time being in force.

For the purpose of the above Regulation and rules the Chairman of the Commission shall be head of the department, provided that he may delegate such functions as he deems fit to any other Member.

11. (1) Subject to the provisions of clause 12, the Commission may in its discretion employ, in addition to the Secretary, such persons as it may deem necessary for the effective discharge of its functions and on such scales of pay as it may determine.

(2) The initial salary of any person so employed shall be fixed in accordance with the provisions of the Mysore Service Regulations for the time being in force and the previous sanction of the Rajpramukh shall be necessary for fixing the initial salary of any such person otherwise than in accordance with those Regulations.

(3) The conditions of service of persons employed by the Commission under this clause shall, save as expressly provided therein, be the same as those prescribed by the State Government in respect of Government servants holding corresponding appointments elsewhere than in the office of the Commission.

(4) The Chairman shall be the person competent to make appointments, promotions and transfers subject to the provisions of the Mysore Service Regulations and to sanction leave, travelling allowance and pension in

respect of all members of the staff of the Commission other than the Secretary.

12. The Commission may, and it is hereby empowered to, incur expenditure in any financial year up to an aggregate sum determined by the State Government from time to time,—

(*a*) for the employment of the persons whom it is authorised to employ under clause 11 ;

(*b*) towards contingencies, supplies and services ; and

(*c*) towards other expenses connected with its work including the travelling allowances of the members of the Commission, the Secretary, and other Members of its staff.

13. In respect of any matter for which special provision is not made by this regulation, the conditions of service of a person serving as a member of the Commission or of its staff shall be governed by the rules and orders applicable to such classes of Government Servants as shall be specified by the Rajpramukh.

14. Until the Commission appoints the Members of the staff under clauses 8 and 11, persons who immediately prior to the commencement of this Regulation were members of the staff of the office of the Public Service Commissioner in Mysore shall continue to be members of the staff of the Commission.

JAYA CHAMARAJA WADIYAR.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

Reg. No. M. 1175

The Mysore Gazette

(PUBLISHED BY AUTHORITY)

Vol. 85] BANGALORE, THURSDAY, FEB. 16, 1950 [No. 7

PART IV

Section I-C

NOTIFICATIONS, RULES, ORDERS, Etc., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATION.

(HOME DEPARTMENT.)

No. H. 11452—Ptl. 23-49-1, dated Bangalore, 31st January 1950.

The Constitution of India as passed by the Constituent Assembly, authenticated by the President of the Assembly on 26th January 1950, is hereby re-published for general information.

THE CONSTITUTION OF INDIA.

Preamble.

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

PART I

THE UNION AND ITS TERRITORY.

Name and territory of the Union.

1. (1) India, that is Bharat, shall be a Union of States.

(2) The States and the territories thereof shall be the States and their territories specified in Parts A, B and C of the First Schedule.

(3) The territory of India shall comprise—

(*a*) the territories of the States;

(*b*) the territories specified in Part D of the First Schedule; and

(*c*) such other territories as may be acquired.

Admission or establishment of new States.

2. Parliament may by law admit into the Union, or establish, new States on such terms and conditions as it thinks fit.

Formation of new States and alteration of areas, boundaries or names of existing States.

3. Parliament may by law—

(*a*) form a new State by separation of territory from any State or by uniting two or more States or parts of States or by uniting any territory to a part of any State;

(*b*) increase the area of any State;

(*c*) diminish the area of any State;

(*d*) alter the boundaries of any State;

(*e*) alter the name of any State:

Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the boundaries of any State or States specified in Part A or Part B of the First Schedule or the name or names of any such State or States, the views of the Legislature of the State or, as the case may be, of each of the States both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President.

Laws made under articles 2 and 3 to provide for the amendment of the First and the Fourth Schedules and supplemental, incidental, and consequential matters.

4. (1) Any law referred to in article 2 or article 3 shall contain such provisions for the amendment of the First Schedule and the Fourth Schedule as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions (including provisions as to representation in Parliament and in the Legislature or Legislatures of the State or States affected by such law) as Parliament may deem necessary.

(2) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

PART II

CITIZENSHIP.

Citizenship at the commencement of the Constitution.

5. At the commencement of this Constitution, every person who has his domicile in the territory of India and—

(*a*) who was born in the territory of India ; or

(*b*) either of whose parents was born in the territory of India ; or

(*c*) who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement,

shall be a citizen of India.

Rights of citizenship of certain persons who have migrated to India from Pakistan.

6. Notwithstanding anything in article 5, a person who has migrated to the territory of India from the territory now included in Pakistan shall be deemed to be a citizen of India at the commencement of this Constitution if—

(*a*) he or either of his parents or any of his grandparents was born in India as defined in the Government of India Act, 1935 (as originally enacted) ; and

(*b*) (i) in the case where such person has so migrated before the nineteenth day of July, 1948, he has been ordinarily resident in the territory of India since the date of his migration, or

(ii) in the case where such person has so migrated on or after the nineteenth day of July, 1948, he has been registered as a citizen of India by an officer appointed in that behalf by the Government of the Dominion of India on an application made by him therefor to such officer before the commencement of this Constitution in the form and manner prescribed by that Government :

Provided that no person shall be so registered unless he has been resident in the territory of India for at least six months immediately preceding the date of his application.

Rights of citizenship of certain migrants to Pakistan.

7. Notwithstanding anything in articles 5 and 6, a person who has after the first day of March, 1947, migrated from the territory of India to the territory now included in Pakistan shall not be deemed to be a citizen of India :

Provided that nothing in this article shall apply to a person who, after having so migrated to the territory now included in Pakistan, has returned to the territory of India under a permit for resettlement or permanent return issued by or under the authority of any law and every such person shall for the purposes of clause (*b*) of article 6 be deemed to have migrated to the territory of India after the nineteenth day of July 1948.

PART II.

Rights of citizenship of certain persons of Indian origin residing outside India.

8. Notwithstanding anything in article 5, any person who or either of whose parents or any of whose grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted), and who is ordinarily residing in any country outside India as so defined shall be deemed to be a citizen of India if he has been registered as a citizen of India by the diplomatic or consular representative of India in the country where he is for the time being residing on an application made by him therefor to such diplomatic or consular representative, whether before or after the commencement of this Constitution, in the form and manner prescribed by the Government of the Dominion of India or the Government of India.

Persons voluntarily acquiring citizenship of a foreign State not to be citizens.

9. No person shall be a citizen of India by virtue of article 5, or be deemed to be a citizen of India by virtue of article 6 or article 8, if he has voluntarily acquired the citizenship of any foreign State.

Continuance of the rights of citizenship.

10. Every person who is or is deemed to be a citizen of India under any of the foregoing provisions of this Part shall, subject to the provisions of any law that may be made by Parliament, continue to be such citizen.

Parliament to regulate the right of citizenship by law.

11. Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.

PART III.

FUNDAMENTAL RIGHTS.

GENERAL.

Definition.

12. In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

Laws inconsistent with or in derogation of the fundamental rights.

13. (1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

(3) In this article, unless the context otherwise requires,—

(*a*) "law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;

(*b*) "laws in force" includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.

RIGHT TO EQUALITY.

14. The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. Equality before law.

15. (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—

(*a*) access to shops, public restaurants, hotels and places of public entertainment; or

(*b*) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

16. (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. Equality of opportunity in matters of public employment.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence, or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under any State specified in the First Schedule or any local or other authority within its territory, any requirement as to residence within that State prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

Abolition of Untouchability.

17. "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

Abolition of titles.

18. (1) No title, not being a military or academic distinction, shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.

(4) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument or office of any kind from or under any foreign State.

RIGHT TO FREEDOM.

Protection of certain rights regarding freedom of speech, etc.

19. (1) All citizens shall have the right—

(*a*) to freedom of speech and expression;

(*b*) to assemble peaceably and without arms;

(*c*) to form associations or unions;

(*d*) to move freely throughout the territory of India;

(*e*) to reside and settle in any part of the territory of India;

(*f*) to acquire, hold and dispose of property; and

(*g*) to practise any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (*a*) of clause (1) shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to, libel, slander, defamation, contempt of court or any matter which offends against decency or morality or which undermines the security of, or tends to overthrow, the State.

(3) Nothing in sub-clause (*b*) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (*c*) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in sub-clauses (*d*), (*e*) and (*f*) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

(6) Nothing in sub-clause (*g*) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it prescribes or empowers any authority to prescribe, or prevent the State from making any law prescribing or empowering any authority to prescribe, the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business.

Protection in respect of conviction for offences.

20. (1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.

Protection of life and personal liberty.

21. No person shall be deprived of his life or personal liberty except according to procedure established by law.

Protection against arrest and detention in certain cases.

22. (1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply—

(*a*) to any person who for the time being is an enemy alien; or

(*b*) to any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorize the detention of a person for a longer period than three months unless—

(*a*) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention;

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (*b*) of clause (7); or

(*b*) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (*a*) and (*b*) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe—

(*a*) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (*a*) of clause (4);

(*b*) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

(*c*) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (*a*) of clause (4).

RIGHT AGAINST EXPLOITATION.

Prohibition of traffic in human beings and forced labour.

23. (1) Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

Prohibition of employment of children in factories etc.

24. No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Part III.—Fundamental Rights.—Arts. 25-28.

RIGHT TO FREEDOM OF RELIGION.

25. (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

Freedom of conscience and free profession, practice and propagation of religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(*a*) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(*b*) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I.—The wearing and carrying of *kirpans* shall be deemed to be included in the profession of the Sikh religion.

Explanation II.—In sub-clause (*b*) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina, or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

26. Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

Freedom to manage religious affairs.

(*a*) to establish and maintain institutions for religious and charitable purposes;

(*b*) to manage its own affairs in matters of religion;

(*c*) to own and acquire movable and immovable property; and

(*d*) to administer such property in accordance with law.

27. No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

Freedom as to payment of taxes for promotion of any particular religion.

28. (1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds.

Freedom as to attendance at religious instruction or religious worship in certain educational institutions.

(2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.

(3) No person attending any educational institution recognized by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious

worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

CULTURAL AND EDUCATIONAL RIGHTS.

Protection of interests of minorities.

29. (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

Right of minorities to establish and administer educational institutions.

30. (1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

RIGHT TO PROPERTY.

Compulsory acquisition of property.

31. (1) No person shall be deprived of his property save by authority of law.

(2) No property, movable or immovable, including any interest in, or in any company owning, any commercial or industrial undertaking, shall be taken possession of or acquired for public purposes under any law authorizing the taking of such possession or such acquisition, unless the law provides for compensation for the property taken possession of or acquired and either fixes the amount of the compensation, or specifies the principles on which, and the manner in which, the compensation is to be determined and given.

(3) No such law as is referred to in clause (2) made by the Legislature of a State shall have effect unless such law, having been reserved for the consideration of the President, has received his assent.

(4) If any Bill pending at the commencement of this Constitution in the Legislature of a State has, after it has been passed by such Legislature, been reserved for the consideration of the President and has received his assent, then, notwithstanding anything in this Constitution, the law so assented to shall not be called in question in any court on the ground that it contravenes the provisions of clause (2).

(5) Nothing in clause (2) shall affect—

(*a*) the provisions of any existing law other than a law to which the provisions of clause (6) apply, or

(*b*) the provisions of any law which the State may hereafter make—

(*i*) for the purpose of imposing or levying any tax or penalty, or

(*ii*) for the promotion of public health or the prevention of danger to life or property, or

(*iii*) in pursuance of any agreement entered into between the Government of the Dominion of India or the Government of India and the Government of any other country, or otherwise, with respect to property declared by law to be evacuee property.

(6) Any law of the State enacted not more than eighteen months before the commencement of this Constitution may within three months from such commencement be submitted to the President for his certification; and thereupon, if the President by public notification so certifies, it shall not be called in question in any court on the ground that it contravenes the provisions of clause (2) of this article or has contravened the provisions of sub-section (2) of section 299 of the Government of India Act, 1935.

RIGHT TO CONSTITUTIONAL REMEDIES.

Remedies for enforcement of rights conferred by this Part.

32. (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

Power to Parliament to modify the rights conferred by this Part in their application to forces.

33. Parliament may by law determine to what extent any of the rights conferred by this Part shall, in their application to the members of the Armed Forces or the Forces charged with the maintenance of public order, be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

Restriction on rights conferred by this Part while martial law is in force in any area.

34. Notwithstanding anything in the foregoing provisions of this Part, Parliament may by law indemnify any person in the service of the Union or of a State or any other person in respect of any act done by him in connection with the maintenance or restoration of order in any area within the territory of India where martial law was in force or validate any sentence passed, punishment inflicted, forfeiture ordered or other act done under martial law in such area.

Legislation to give effect to the provisions of this Part.

35. Notwithstanding anything in this Constitution—

(*a*) Parliament shall have, and the Legislature of a State shall not have, power to make laws—

(*i*) with respect to any of the matters which under clause (3) of article 16, clause (3) of article 32, article 33 and article 34 may be provided for by law made by Parliament; and

(*ii*) for prescribing punishment for those acts which are declared to be offences under this Part;

and Parliament shall, as soon as may be after the commencement of this Constitution, make laws for prescribing punishment for the acts referred to in sub-clause (ii);

(*b*) any law in force immediately before the commencement of this Constitution in the territory of India with respect to any of the matters referred to in sub-clause (i) of clause (*a*) or providing for punishment for any act referred to in sub-clause (ii) of that clause shall, subject to the terms thereof and to any adaptations and modifications that may be made therein under article 372, continue in force until altered or repealed or amended by Parliament.

Explanation.—In this article, the expression "law in force" has the same meaning as in article 372.

PART IV.

DIRECTIVE PRINCIPLES OF STATE POLICY.

Definition.

36. In this Part, unless the context otherwise requires, "the State" has the same meaning as in Part III.

Application of the principles contained in this Part.

37. The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

State to secure a social order for the promotion of welfare of the people.

38. The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

39. The State shall, in particular, direct its policy towards securing— Certain principles of policy to be followed by the State.

(*a*) that the citizens, men and women equally, have the right to an adequate means of livelihood;

(*b*) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(*c*) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(*d*) that there is equal pay for equal work for both men and women;

(*e*) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(*f*) that childhood and youth are protected against exploitation and against moral and material abandonment.

40. The State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. Organisation of village panchayats.

41. The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want. Right to work, to education and to public assistance in certain cases.

42. The State shall make provision for securing just and humane conditions of work and for maternity relief. Provision for just and humane conditions of work and maternity relief.

43. The State shall endeavour to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas. Living wage, etc., for workers.

44. The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India. Uniform civil code for the citizens.

Provision for free and compulsory education for children.

45. The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

Promotion of educational and economic interests of Scheduled castes, scheduled Tribes and other weaker sections.

46. The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

Duty of the State to raise the level of nutrition and the standard of living and to improve public health.

47. The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

Organisation of agriculture and animal husbandry.

48. The State shall endeavour to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

Protection of monuments and places and objects of national importance.

49. It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by Parliament by law to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

Separation of judiciary from executive.

50. The State shall take steps to separate the judiciary from the executive in the public services of the State.

Promotion of international peace and security.

51. The State shall endeavour to—

(*a*) promote international peace and security;

(*b*) maintain just and honourable relations between nations;

(*c*) foster respect for international law and treaty obligations in the dealings of organized peoples with one another; and

(*d*) encourage settlement of international disputes by arbitration.

PART V.

THE UNION.

CHAPTER I.—THE EXECUTIVE.

The President and Vice-President.

52. There shall be a President of India. The President of India.

53. (1) The executive power of the Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution. Executive power of the Union.

(2) Without prejudice to the generality of the foregoing provision, the supreme command of the Defence Forces of the Union shall be vested in the President and the exercise thereof shall be regulated by law.

(3) Nothing in this article shall—

(*a*) be deemed to transfer to the President any functions conferred by any existing law on the Government of any State or other authority; or

(*b*) prevent Parliament from conferring by law functions on authorities other than the President.

54. The President shall be elected by the members of an electoral college consisting of— Election of President.

(*a*) the elected members of both Houses of Parliament; and

(*b*) the elected members of the Legislative Assemblies of the States.

55. (1) As far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President. Manner of election of President.

(2) For the purpose of securing such uniformity among the States *inter se* as well as parity between the States as a whole and the Union, the number of votes which each elected member of Parliament and of the Legislative Assembly of each State is entitled to cast at such election shall be determined in the following manner:—

(*a*) every elected member of the Legislative Assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly;

(*b*) if, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in sub-clause (*a*) shall be further increased by one;

(*c*) each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the States under sub-clauses (*a*) and (*b*) by the total number of the elected members of both Houses of Parliament, fractions exceeding one-half being counted as one and other fractions being disregarded.

(3) The election of the President shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

Explanation.—In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

Term of office of President.

56. (1) The President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that—

(*a*) the President may, by writing under his hand addressed to the Vice-President, resign his office;

(*b*) the President may, for violation of the Constitution, be removed from office by impeachment in the manner provided in article 61;

(*c*) the President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) Any resignation addressed to the Vice-President under clause (*a*) of the proviso to clause (1) shall forthwith be communicated by him to the Speaker of the House of the People.

Eligibility for re-election.

57. A person who holds, or who has held, office as President shall, subject to the other provisions of this Constitution, be eligible for re-election to that office.

Qualifications for election as President.

58. (1) No person shall be eligible for election as President unless he—

(*a*) is a citizen of India,

(*b*) has completed the age of thirty-five years, and

(*c*) is qualified for election as a member of the House of the People.

(2) A person shall not be eligible for election as President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Explanation.—For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor or Rajpramukh or Uparajpramukh of any State or is a Minister either for the Union or for any State.

Conditions of President's office.

59. (1) The President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as President.

(2) The President shall not hold any other office of profit.

(3) The President shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

(4) The emoluments and allowances of the President shall not be diminished during his term of office.

Oath or affirmation by the President.

60. Every President and every person acting as President or discharging the functions of the President shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of India or, in his absence, the senior-most Judge of the Supreme Court available, an oath or affirmation in the following form, that is to say—

"A. B., do $\frac{\text{swear in the name of God}}{\text{solemnly affirm}}$ that I will faithfully execute the office of President (or discharge the functions of the President) of India and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of India."

Procedure for impeachment of the President.

61. (1) When a President is to be impeached for violation of the Constitution, the charge shall be preferred by either House of Parliament.

(2) No such charge shall be preferred unless—

(*a*) the proposal to prefer such charge is contained in a resolution which has been moved after at least fourteen days' notice in writing signed by not less than one-fourth of the total number of members of the House has been given of their intention to move the resolution, and

(*b*) such resolution has been passed by a majority of not less than two-thirds of the total membership of the House.

(3) When a charge has been so preferred by either House of Parliament, the other House shall investigate the charge or cause the charge to be investigated and the President shall have the right to appear and to be represented at such investigation.

(4) If as a result of the investigation a resolution is passed by a majority of not less than two-thirds of the total membership of the House by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained, such resolution shall have the effect of removing the President from his office as from the date on which the resolution is so passed.

Time of holding election to fill vacancy in the office of President and the term of office of person elected to fill casual vacancy.

62. (1) An election to fill a vacancy caused by the expiration of the term of office of President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after, and in no case later than six months from, the date of occurrence of the vacancy; and the person elected to fill the vacancy shall, subject to the provisions of article 56, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

The Vice-President of India.

63. There shall be a Vice-President of India.

The Vice-President to be *ex-officio* Chairman of the Council of States.

64. The Vice-President shall be *ex-officio* Chairman of the Council of States and shall not hold any other office of profit:

Provided that during any period when the Vice-President acts as President or discharges the functions of the President under article 65, he shall not perform the duties of the office of Chairman of the Council of States and shall not be entitled to any salary or allowance payable to the Chairman of the Council of States under article 97.

The Vice-President to act as President or to discharge his functions during casual vacancies in the office or during the absence, of President.

65. (1) In the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or removal, or otherwise, the Vice-President shall act as President until the date on which a new President elected in accordance with the provisions of this Chapter to fill such vacancy enters upon his office.

(2) When the President is unable to discharge his functions owing to absence, illness or any other cause, the Vice-President shall discharge his functions until the date on which the President resumes his duties.

(3) The Vice-President shall, during, and in respect of, the period while he is so acting as, or discharging the functions of, President, have all the powers and immunities of the President and be entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

66. (1) The Vice-President shall be elected by the members of both Houses of Parliament assembled at a joint meeting in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot. Election of Vice-President.

(2) The Vice-President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected Vice-President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Vice-President.

(3) No person shall be eligible for election as Vice-President unless he—

(*a*) is a citizen of India;

(*b*) has completed the age of thirty-five years; and

(*c*) is qualified for election as a member of the Council of States.

(4) A person shall not be eligible for election as Vice-President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Explanation.—For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor or Rajpramukh or Uparajpramukh of any State or is a Minister either for the Union or for any State.

67. The Vice-President shall hold office for a term of five years from the date on which he enters upon his office: Term of office of Vice-President.

Provided that—

(*a*) a Vice-President may, by writing under his hand addressed to the President, resign his office;

(*b*) a Vice-President may be removed from his office by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution;

(*c*) a Vice-President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

Time of holding election to fill vacancy in the office of Vice-President and the term of office of person elected to fill casual vacancy.

68. (1) An election to fill a vacancy caused by the expiration of the term of office of Vice-President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of Vice-President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after the occurrence of the vacancy, and the person elected to fill the vacancy shall, subject to the provisions of article 67, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

Oath or affirmation by the Vice-President.

69. Every Vice-President shall, before entering upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation in the following form, that is to say—

"I, A.B., do swear in the name of God / solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter."

Discharge of President's functions in other contingencies.

70. Parliament may make such provision as it thinks fit for the discharge of the functions of the President in any contingency not provided for in this Chapter.

Matters relating to or connected with the election of a President or Vice-President.

71. (1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.

(2) If the election of a person as President or Vice-President is declared void by the Supreme Court, acts done by him in the exercise and performance of the powers and duties of the office of President or Vice-President, as the case may be, on or before the date of the decision of the Supreme Court shall not be invalidated by reason of that declaration.

(3) Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President.

Power of President to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.

72. (1) The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence—

(a) in all cases where the punishment or sentence is by a Court Martial;

(b) in all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends;

(c) in all cases where the sentence is a sentence of death.

(2) Nothing in sub-clause (*a*) of clause (1) shall affect the power conferred by law on any officer of the Armed Forces of the Union to suspend, remit or commute a sentence passed by a Court Martial.

(3) Nothing in sub-clause (*c*) of clause (1) shall affect the power to suspend, remit or commute a sentence of death exercisable by the Governor or Rajpramukh of a State under any law for the time being in force.

Extent of executive power of the Union.

73. (1) Subject to the provisions of this Constitution, the executive power of the Union shall extend—

(*a*) to the matters with respect to which Parliament has power to make laws; and

(b) to the exercise of such rights, authority and jurisdiction as are exercisable by the Government of India by virtue of any treaty or agreement:

Provided that the executive power referred to in sub-clause (*a*) shall not, save as expressly provided in this Constitution or in any law made by Parliament, extend in any State specified in Part A or Part B of the First Schedule to matters with respect to which the Legislature of the State has also power to make laws.

(2) Until otherwise provided by Parliament, a State and any officer or authority of a State may, notwithstanding anything in this article, continue to exercise in matters with respect to which Parliament has power to make laws for that State such executive power or functions as the State or officer or authority thereof could exercise immediately before the commencement of this Constitution.

Council of Ministers.

Council of Ministers to aid and advise President.

74. (1) There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions.

(2) The question whether any, and if so what, advice was tendered by Ministers to the President shall not be inquired into in any court.

Other provisions as to Ministers.

75. (1) The Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister.

(2) The Ministers shall hold office during the pleasure of the President.

(3) The Council of Ministers shall be collectively responsible to the House of the People.

(4) Before a Minister enters upon his office, the President shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(5) A Minister who for any period of six consecutive months is not a member of either House of Parliament shall at the expiration of that period cease to be a Minister.

(6) The salaries and allowances of Ministers shall be such as Parliament may from time to time by law determine and, until Parliament so determines, shall be as specified in the Second Schedule.

The Attorney-General for India.

Attorney-General for India.

76. (1) The President shall appoint a person who is qualified to be appointed a Judge of the Supreme Court to be Attorney-General for India.

(2) It shall be the duty of the Attorney-General to give advice to the Government of India upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the President, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) In the performance of his duties the Attorney-General shall have right of audience in all courts in the territory of India.

(4) The Attorney-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine.

Conduct of Government Business.

Conduct of business of the Government of India.

77. (1) All executive action of the Government of India shall be expressed to be taken in the name of the President.

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

(3) The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business.

Duties of Prime Minister as respects the furnishing of information to the President, etc.

78. It shall be the duty of the Prime Minister—

(*a*) to communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation ;

(*b*) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for ; and

(*c*) If the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

CHAPTER II.—PARLIAMENT.

General.

79. There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People. Constitution of parliament.

80. (1) The Council of States shall consist of— Composition of the Council of States.

(*a*) twelve members to be nominated by the President in accordance with the provisions of clause (3) ; and

(*b*) not more than two hundred and thirty-eight representatives of the States.

(2) The allocation of seats in the Council of States to be filled by representatives of the States shall be in accordance with the provisions in that behalf contained in the Fourth Schedule.

(3) the members to be nominated by the President under sub-clause (*a*) of clause (1) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely :—

Literature, science, art and social service.

(4) The representatives of each State specified in Part A or Part B of the First Schedule in the Council of States shall be elected by the elected members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote.

(5) The representatives of the States specified in Part C of the First Schedule in the Council of States shall be chosen in such manner as Parliament may by law prescribe.

81. (1) (*a*) Subject to the provisions of clause (2) and of articles 82 and 331, the House of the People shall consist of not more than five hundred members directly elected by the voters in the States. Composition of the House of the People.

(*b*) For the purpose of sub-clause (*a*), the States shall be divided, grouped or formed into territorial constituencies and the number of members to be allotted to each such constituency shall be so determined as to ensure that there shall be not less than one member for every 750,000 of the population and not more than one member of every 500,000 of the population.

(*c*) The ratio between the number of members allotted to each territorial constituency and the population of that constituency as ascertained at the last preceding census of which the relevant figures have been published shall, so far as practicable, be the same throughout the territory of India.

(2) The representation in the House of the People of the territories comprised within the territory of India but not included within any State shall be such as Parliament may by law provide.

(3) Upon the completion of each census, the representation of the several territorial constituencies in the House of the People shall be readjusted by such authority, in such manner and with effect from such date as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the House of the People until the dissolution of the then existing House.

Special provision as to representation of States in Part C and territories other than States.

82. Notwithstanding anything in clause (1) of article 81, Parliament may by law provide for the representation in the House of the People of any State specified in Part C of the First Schedule or of any territories comprised within the territory of India but not included within any State on a basis or in a manner other than that provided in that clause.

Duration of Houses of Parliament.

83. (1) The Council of States shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

(2) The House of the People, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the House:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

Qualification for membership of Parliament.

84. A person shall not be qualified to be chosen to fill a seat in Parliament unless he—

(*a*) is a citizen of India;

(*b*) is, in the case of a seat in the Council of States, not less than thirty years of age and, in the case of a seat in the House of the People, not less than twenty-five years of age; and

(*c*) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Sessions of Parliament prorogation and dissolution.

85. (1) The Houses of Parliament shall be summoned to meet twice at least in every year, and six months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session.

(2) Subject to the provisions of clause (1), the President may from time to time—

(*a*) summon the Houses or either House to meet at such time and place as he thinks fit;

(*b*) prorogue the Houses;

(*c*) dissolve the House of the People.

86. (1) The President may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members.

Right of President to address and send messages to Houses.

(2) The President may send messages to either House of Parliament, whether with respect to a Bill then pending in Parliament or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

87. (1) At the commencement of every session the President shall address both Houses of Parliament assembled together and inform Parliament of the causes of its summons.

Special address by the President at the commencement of every session.

(2) Provision shall be made by the rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in such address and for the precedence of such discussion over other business of the House.

88. Every Minister and the Attorney-General of India shall have the right to speak in, and otherwise to take part in the proceedings of, either House, any joint sitting of the Houses, and any committee of Parliament of which he may be named a member, but shall not by virtue of this article be entitled to vote.

Rights of Ministers and Attorney-General as respects Houses.

Officers of Parliament.

89. (1) The Vice-President of India shall be *ex-officio* Chairman of the Council of States.

The Chairman and Deputy Chairman of the Council of States.

(2) The Council of States shall, as soon as may be, choose a member of the Council to be Deputy Chairman thereof and, so often as the office of Deputy Chairman becomes vacant, the Council shall choose another member to be Deputy Chairman thereof.

90. A member holding office as Deputy Chairman of the Council of States—

Vacation and resignation of, and removal from, the office of Deputy Chairman.

(*a*) shall vacate his office if he ceases to be a member of the Council;

(*b*) may at any time, by writing under his hand addressed to the Chairman, resign his office; and

(*c*) may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that no resolution for the purpose of clause (*c*) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman.

91. (1) While the office of Chairman is vacant, or during any period when the Vice-President is acting as, or discharging the functions of, President, the duties of the office shall be performed by the Deputy Chairman, or, if the office of Deputy Chairman is also vacant, by such member of the Council of States as the President may appoint for the purpose.

(2) During the absence of the Chairman from any sitting of the Council of States the Deputy Chairman, or, if he is also absent, such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration.

92. (1) At any sitting of the Council of States, while any resolution for the removal of the Vice-President from his office is under consideration, the Chairman, or while any resolution for the removal of the Deputy Chairman from his office is under consideration, the Deputy Chairman, shall not, though he is present, preside, and provisions of clause (2) of article 91 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Chairman, or, as the case may be, the Deputy Chairman, is absent.

(2) The Chairman shall have the right to speak in, and otherwise to take part in the proceedings of, the Council of States while any resolution for the removal of the Vice-President from his office is under consideration in the Council, but, notwithstanding anything in article 100, shall not be entitled to vote at all on such resolution or on any other matter during such proceedings.

The Speaker and Deputy Speaker of the House of the People.

93. The House of the People shall, as soon as may be, choose two members of the House to be respectively Speaker and Deputy Speaker thereof, and so often as the office of Speaker or Deputy Speaker becomes vacant, the House shall choose another member to be Speaker or Deputy Speaker, as the case may be.

Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.

94. A member holding office as Speaker or Deputy Speaker of the House of the People—

(*a*) shall vacate his office if he ceases to be a member of the House of the People;

(*b*) may at any time, by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and

(*c*) may be removed from his office by a resolution of the House of the People passed by a majority of all the then members of the House:

Provided that no resolution for the purpose of clause (*c*) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution;

Provided further that, whenever the House of the People is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the House of the People after the dissolution.

Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker.

95. (1) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the House of the People as the President may appoint for the purpose.

(2) During the absence of the Speaker from any sitting of the House of the People the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the House, or, if no such person is present, such other person as may be determined by the House, shall act as Speaker.

The Speaker or the Deputy Speaker not to preside while a resolution for his removal from office is under consideration.

96. (1) At any sitting of the House of the People, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside, and the provisions of clause (2) of article 95 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker, or, as the case may be, the Deputy Speaker, is absent.

(2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of, the House of the People while any resolution for his removal from office is under consideration in the House and shall, notwithstanding anything in article 100, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

Salaries and allowances of the Chairman and Deputy Chairman and the Speaker and Deputy Speaker.

97. There shall be paid to the Chairman and the Deputy Chairman of the Council of States, and to the Speaker and the Deputy Speaker of the House of the People, such salaries and allowances as may be respectively fixed by Parliament by law and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

Secretariat of Parliament.

98. (1) Each House of Parliament shall have a separate secretarial staff:

Provided that nothing in this clause shall be construed as preventing the creation of posts common to both Houses of Parliament.

(2) Parliament may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretarial staff of either House of Parliament.

(3) Until provision is made by Parliament under clause (2), the President may, after consultation with the Speaker of the House of the People or the Chairman of the

Council of States, as the case may be, make rules regulating the recruitment, and the conditions of service of persons appointed to the secretarial staff of the House of the People or the Council of States, and any rules so made shall have effect subject to the provisions of any law made under the said clause.

Conduct of Business.

Oath or affirmation by members.

99. Every member of either House of Parliament shall, before taking his seat, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

Voting in Houses, power of Houses to act notwithstanding vacancies and quorum.

100. (1) Save as otherwise provided in this Constitution, all questions at any sitting of either House or joint sitting of the Houses shall be determined by a majority of votes of the members present and voting, other than the Speaker or person acting as Chairman or Speaker.

The Chairman or Speaker, or person acting as such, shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(2) Either House of Parliament shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in Parliament shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

(3) Until Parliament by law otherwise provides, the quorum to constitute a meeting of either House of Parliament shall be one-tenth of the total number of members of the House.

(4) If at any time during a meeting of a House there is no quorum, it shall be the duty of the Chairman or Speaker, or person acting as such, either to adjurn the House or to suspend the meeting until there is quorum.

Disqualifications of Members.

Vacation of seats.

101. (1) No person shall be a member of both Houses of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

(2) No person shall be a member both of Parliament and of a House of the Legislature of a State specified in Part A or Part B of the First Schedule, and if a person is chosen a member both of Parliament and of a House of the Legislature of such a State, then, at the expiration of such period as may be specified in rules made by the President, that person's seat in Parliament shall become vacant, unless he has previously resigned his seat in the Legislature of the State.

(3) If a member of either House of Parliament—

(*a*) becomes subject to any of the disqualifications mentioned in clause (1) of article 102, or

(*b*) resignes his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be, his seat shall thereupon become vacant.

(4) If for a period of sixty days a member of either House of Parliament is without permission of the House absent from all meetings thereof, the House may declare his seat vacant :

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

Disqualifications for membership.

102. (1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

(*a*) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder ;

(*b*) if he is of unsound mind and stands so declared by a competent court ;

(*c*) if he is an undischarged insolvent ;

(*d*) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State ;

(*e*) if he is so disqualified by or under any law made by Parliament.

(2) For the purposes of this article a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State by reason only that he is a Minister either for the Union or for such State.

Decision on questions as to disqualifications of members.

103. (1) If any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (1) of article 102, the question shall be referred for the decision of the President and his decision shall be final.

(2) Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.

Penalty for sitting and voting before making oath or affirmation under article 99 or when not qualified or when disqualified.

104. If a person sits or votes as a member of either House of Parliament before he has complied with the requirements of article 99, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Union.

Powers, Privileges and Immunities of Parliament and its Members.

Powers, privileges, etc., of the Houses of Parliament and of the members and committees thereof.

105. (1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.

(2) No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House, shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution.

(4) The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of, a House of Parliament or any committee thereof as they apply in relation to members of Parliament.

Salaries and allowances of members.

106. Members of either House of Parliament shall be entitled to receive such salaries and allowances as may from time to time be determined by Parliament by law and, until provision in that respect is so made, allowances at such rates and upon such conditions as were immediately before the commencement of this Constitution applicable in the case of members of the Constituent Assembly of the Dominion of India.

Legislative Procedure.

Provisions as to introduction and passing of Bills.

107. (1) Subject to the provisions of articles 109 and 117 with respect to Money Bills and other financial Bills, a Bill may originate in either House of Parliament.

(2) Subject to the provisions of articles 108 and 109, a Bill shall not be deemed to have been passed by the Houses of Parliament unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.

(3) A Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses.

(4) A Bill pending in the Council of States which has not been passed by the House of the People shall not lapse on a dissolution of the House of the People.

(5) A Bill which is pending in the House of the People, or which having been passed by the House of the People is

pending in the Council of States, shall, subject to the provisions of article 108, lapse on a dissolution of the House of the People.

Joint sitting of both Houses in certain cases.

108. (1) If after a Bill has been passed by one House and transmitted to the other House—

(*a*) the Bill is rejected by the other House; or

(*b*) the Houses have finally disagreed as to the amendments to be made in the Bill; or

(*c*) more than six months elapse from the date of the reception of the Bill by the other House without the Bill being passed by it,

the President may, unless the Bill has lapsed by reason of a dissolution of the House of the People, notify to the Houses by message if they are sitting or by public notification if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill:

Provided that nothing in this clause shall apply to a Money Bill.

(2) In reckoning any such period of six months as is referred to in clause (1), no account shall be taken of any period during which the House referred to in sub-clause (*c*) of that clause is prorogued or adjourned for more than four consecutive days.

(3) Where the President has under clause (1) notified his intention of summoning the Houses to meet in a joint sitting, neither House shall proceed further with the Bill, but the President may at any time after the date of his notification summon the Houses to meet in a joint sitting for the purpose specified in the notification and, if he does so, the Houses shall meet accordingly.

(4) If at the joint sitting of the two Houses the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Houses present and voting, it shall be deemed for the purposes of this Constitution to have been passed by both Houses:

Provided that at a joint sitting—

(*a*) if the Bill, having been passed by one House, has not been passed by the other House with amendments and returned to the House in which it originated, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill;

(b) if the Bill has been so passed and returned, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Houses have not agreed;

and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

(5) A joint sitting may be held under this article and a Bill passed thereat, notwithstanding that a dissolution of the House of the People has intervened since the President notified his intention to summon the Houses to meet therein.

Special procedure in respect of Money Bills.

109. (1) A Money Bill shall not be introduced in the Council of States.

(2) After a Money Bill has been passed by the House of the People it shall be transmitted to the Council of States for its recommendations and the Council of States shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the House of the People with its recommendations and the House of the People may thereupon either accept or reject all or any of the recommendations of the Council of States.

(3) If the House of the People accepts any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Council of States and accepted by the House of the People.

(4) If the House of the People does not accept any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the House of the People without any of the amendments recommended by the Council of States.

(5) If a Money Bill passed by the House of the People and transmitted to the Council of States for its recommendations is not returned to the House of the People within the said period of fourteen days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the House of the People.

Definition of "Money Bills".

110. (1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely—

(*a*) the imposition, abolition, remission, alteration or regulation of any tax;

(*b*) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;

(*c*) the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such Fund;

(*d*) the appropriation of moneys out of the Consolidated Fund of India;

(*e*) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;

(*f*) the receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State; or

(*g*) any matter incidental to any of the matters specified in sub-clauses (*a*) to (*f*).

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Council of States under article 109, and when it is presented to the President for assent under article 111, the certificate of the Speaker of the House of the People signed by him that it is a Money Bill.

Assent Bills.

111. When a Bill has been passed by the Houses of Parliament, it shall be presented to the President, and the President shall declare either that he assents to the Bill, or that he withholds assent therefrom:

Provided that the President may, as soon as possible after the presentation to him of a Bill for assent, return the Bill if it is not a Money Bill to the Houses with a message requesting that they will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and when a Bill is so returned, the Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the Houses with or without amendment and presented to the President for assent, the President shall not withhold assent therefrom.

Procedure in financial matters.

Annual financial statement.

112. (1) The President shall in respect of every financial year cause to be laid before both the Houses of Parliament a statement of the estimated receipts and expenditure of the Government of India for that year, in this Part referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(*a*) the sums required to meet expenditure described by this Constitution as expenditure charged upon the Consolidated Fund of India; and

(*b*) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of India, and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the Consolidated Fund of India—

(*a*) the emoluments and allowances of the President and other expenditure relating to his office;

(*b*) the salaries and allowances of the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the House of the People;

(*c*) debt charges for which the Government of India is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

(*d*) (*i*) the salaries, allowances and pensions payable to or in respect of Judges of the Supreme Court;

(*ii*) the pensions payable to or in respect of Judges of the Federal Court;

(*iii*) the pensions payable to or in respect of Judges of any High Court which exercises jurisdiction in relation to any area included in the territory of India or which at any time before the commencement of this Constitution exercised jurisdiction in relation to any area included in a Province corresponding to a State specified in Part A of the First Schedule;

(*e*) the salary, allowances and pension payable to or in respect of the Comptroller and Auditor-General of India;

(*f*) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;

(*g*) any other expenditure declared by this Constitution or by Parliament by law to be so charged.

Procedure in Parliament with respect to estimates.

113. (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of India shall not be submitted to the vote of Parliament, but nothing in this clause shall be construed as preventing the discussion in either House of Parliament of any of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the House of the People, and the House of the People shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the President.

Appropriation Bills.

114. (1) As soon as may be after the grants under article 113 have been made by the House of the People, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of India of all moneys required to meet—

(*a*) the grants so made by the House of the People; and

(*b*) the expenditure charged on the Consolidated Fund of India but not exceeding in any case the amount shown in the statement previously laid before Parliament.

(2) No amendment shall be proposed to any such Bill in either House of Parliament which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of India, and the decision of the person presiding as to whether an amendment is inadmissible under this clause shall be final.

(3) Subject to the provisions of articles 115 and 116, no money shall be withdrawn from the Consolidated Fund of India except under appropriation made by law passed in accordance with the provisions of this article.

Supplementary additional or excess grants.

115. (1) The President shall—

(*a*) if the amount authorized by any law made in accordance with the provisions of article 114 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(*b*) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year,

cause to be laid before both the Houses of Parliament another statement showing the estimated amount of that expenditure or cause to be presented to the House of the People a demand for such excess, as the case may be.

(2) The provisions of articles 112, 113 and 114 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorizing the appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorization of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or grant.

Votes on account, votes of credit and exceptional grants.

116. (1) Notwithstanding anything in the foregoing provisions of this Chapter, the House of the People shall have power—

(*a*) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 113 for the voting of such grant and the passing of the law in accordance with the provisions of article 114 in relation to that expenditure;

(*b*) to make a grant for meeting an unexpected demand upon the resources of India when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;

(*c*) to make an exceptional grant which forms no part of the current service of any financial year;

and Parliament shall have power to authorize by law the withdrawal of moneys from the Consolidated Fund of India for the purposes for which the said grants are made.

(2) The provisions of articles 113 and 114 shall have effect in relation to the making of any grant under clause (1) and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorization of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure.

Special provisions as to financial Bills.

117. (1) A Bill or amendment making provision for any of the matters specified in sub-clauses (*a*) to (*f*) of clause (1) of article 110 shall not be introduced or moved except on the recommendation of the President and a Bill making such provision shall not be introduced in the Council of States:

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill.

Procedure Generally.

Rules of procedure.

118. (1) Each House of Parliament may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business.

(2) Until rules are made under clause (1), the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature of the Dominion of India shall have effect in relation to Parliament subject to such modifications and adaptations as may be made therein by the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

(3) The President, after consultation with the Chairman of the Council of States and the Speaker of the House of the People, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Houses.

(4) At a joint sitting of the two Houses the Speaker of the House of the People, or in his absence such person as may be determined by rules of procedure made under clause (3), shall preside.

Regulation by law of procedure in Parliament in relation to financial business.

119. Parliament may, for the purpose of the timely completion of financial business, regulate by law the procedure of, and the conduct of business in, each House of Parliament in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of India, and, if and so far as any provision of any law so made is inconsistent with any rule made by a House of Parliament under clause (1) of article 118 or with any rule or standing order having effect in relation to Parliament under clause (2) of that article, such provision shall prevail.

Language to be used in Parliament.

120. (1) Notwithstanding anything in Part XVII, but subject to the provisions of article 348, business in Parliament shall be transacted in Hindi or in English :

Provided that the Chairman of the Council of States or Speaker of the House of the People, or person acting as such, as the case may be, may permit any member who cannot adequately express himself in Hindi or in English to address the House in his mother tongue.

(2) Unless Parliament by law otherwise provides, this article shall, after the expiration of a period of fifteen years from the commencement of this Constitution, have effect as if the words "or in English" were omitted therefrom.

Restriction on discussion in Parliament.

121. No discussion shall take place in Parliament with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties except upon a motion for presenting an address to the President praying for the removal of the Judge as hereinafter provided.

Courts not to inquire into proceedings of Parliament.

122. (1) The validity of any proceedings in Parliament shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or member of Parliament in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in Parliament shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

CHAPTER III.—LEGISLATIVE POWERS OF THE PRESIDENT.

Power of President to promulgate Ordinances during recess of Parliament.

123. (1) If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require.

(2) On Ordinance promulgated under this article shall have the same force and effect as an Act of Parliament, but every such Ordinance—

(*a*) shall be laid before both Houses of Parliament and shall cease to operate at the expiration of six weeks from the reassembly of Parliament, or, if before the expiration of that period resolutions disapproving it are passed by both Houses, upon the passing of the second of those resolutions; and

(*b*) may be withdrawn at any time by the President.

Explanation.—Where the Houses of Parliament are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void.

CHAPTER IV.—THE UNION JUDICIARY.

Establishment and constitution of Supreme Court.

124. (1) There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than seven other Judges.

(2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty-five years:

Provided that in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of India shall always be consulted:

Provided further that—

(*a*) a Judge may, by writing under his hand addressed to the President, resign his office;

(*b*) a Judge may be removed from his office in the manner provided in clause (4).

(3) A person shall not be qualified for appointment as a Judge of the Supreme Court unless he is a citizen of India and—

(*a*) has been for at least five years a Judge of a High Court or of two or more such Courts in succession; or

(*b*) has been for at least ten years an advocate of a High Court or of two or more such Courts in succession; or

(*c*) is, in the opinion of the President, a distinguished jurist.

Explanation I.—In this clause "High Court" means a High Court which exercises, or which at any time before the commencement of this Constitution exercised, jurisdiction in any part of the territory of India.

Explanation II.—In computing for the purpose of this clause the period during which a person has been an advocate, any period during which a person has held judicial office not inferior to that of a district judge after he became an advocate shall be included.

(4) A Judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity.

(5) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a Judge under clause (4).

(6) Every person appointed to be a Judge of the Supreme Court shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

(7) No person who has held office as a Judge of the Supreme Court shall plead or act in any court or before any authority within the territory of India.

Salaries, etc., of Judges.

125. (1) There shall be paid to the Judges of the Supreme Court such salaries as are specified in the Second Schedule.

(2) Every Judge shall be entitled to such privileges and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such privileges, allowances and rights as are specified in the Second Schedule:

Provided that neither the privileges nor the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

Appointment of acting Chief Justice.

126. When the office of Chief Justice of India is vacant or when the Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

Appointment of *ad hoc* Judges.

127. (1) If at any time there should not be quorum of the Judges of the Supreme Court available to hold or continue any session of the Court, the Chief Justice of India may, with the previous consent of the President and after

consultation with the Chief Justice of the High Court concerned, request in writing the attendance at the sittings of the Court, as an *ad hoc* Judge, for such period as may be necessary, of a Judge of a High Court duly qualified for appointment as a Judge of the Supreme Court to be designated by the Chief Justice of India.

(2) It shall be the duty of the Judge who has been so designated, in priority to other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required, and while so attending he shall have all the jurisdiction, powers and privileges, and shall discharge the duties, of a Judge of the Supreme Court.

Attendance of retired Judges at sittings of the Supreme Court.

128. Notwithstanding anything in this Chapter, the Chief Justice of India may at any time, with the previous consent of the President, request any person who has held the office of a Judge of the Supreme Court or of the Federal Court to sit and act as a Judge of the Supreme Court, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that Court:

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that Court unless he consents so to do.

Supreme Court to be a Court of record.

129. The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

Seat of Supreme Court.

130. The Supreme Court shall sit in Delhi or in such other place or places, as the Chief Justice of India may, with the approval of the President, from time to time, appoint.

Original jurisdiction of the Supreme Court

131. Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute—

(*a*) between two or more States,

(*b*) between the Government of India and any State or States on one side and one or more other States on the other; or

(*c*) between two or more States,

if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends:

Provided that the said jurisdiction shall not extend to—

(*i*) a dispute to which a State specified in Part B of the First Schedule is a party, if the dispute arises out of any provision of a treaty, agreement, covenant, engagement, *sanad* or other similar instrument which was entered into or executed before the commencement of this Constitution and has, or has been, continued in operation after such commencement;

(*ii*) a dispute to which any State is a party, if the dispute arises out of any provision of a treaty, agreement, covenant, engagement, *sanad* or other similar instrument which provides that the said jurisdiction shall not extend to such a dispute.

Appellate jurisdiction of Supreme Court in appeals from High Courts in certain cases.

132. (1) An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceeding, if the High Court certifies that the case involves a substantial question of law as to the interpretation of this Constitution.

(2) Where the High Court has refused to give such a certificate, the Supreme Court may, if it is satisfied that the case involves a substantial question of law as to the interpretation of this Constitution, grant special leave to appeal from such judgment, decree or final order.

(3) Where such a certificate is given, or such leave is granted, any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided and, with the leave of the Supreme Court, on any other ground.

Explanation.—For the purposes of this article, the expression "final order" includes an order deciding an issue which, if decided in favour of the appellant, would be sufficient for the final disposal of the case.

Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters.

133. (1) An appeal shall lie to the Supreme Court from any judgment, decree or final order in a civil proceeding of a High Court in the territory of India if the High Court certifies—

(*a*) that the amount or value of the subject-matter of the dispute in the court of first instance and still in dispute on appeal was and is not less than twenty thousand rupees or such other sum as may be specified in that behalf by Parliament by law; or

(*b*) that the judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value; or

(*c*) that the case is a fit one for appeal to the Supreme Court;

and, where the judgment, decree or final order appealed from affirms the decision of the court immediately below in any case other than a case referred to in sub-clause (*c*), if the High Court further certifies that the appeal involves some substantial question of law.

(2) Notwithstanding anything in article 132, any party appealing to the Supreme Court under clause (1) may urge as one of the grounds in such appeal that a substantial question of law as to the interpretation of this Constitution has been wrongly decided.

(3) Notwithstanding anything in this article, no appeal shall, unless Parliament by law otherwise provides, lie to the Supreme Court from the judgment, decree or final order of one Judge of a High Court.

Appellate jurisdiction of Supreme Court in regard to criminal matters.

134. (1) An appeal shall lie to the Supreme Court from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India if the High Court—

(*a*) has on appeal reversed an order of acquittal of an accused person and sentenced him to death; or

(*b*) has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death; or

(*c*) certifies that the case is a fit one for appeal to the Supreme Court:

Provided that an appeal under sub-clause (*c*) shall lie subject to such provisions as may be made in that behalf under clause (1) of article 145 and to such conditions as the High Court may establish or require.

(2) Parliament may by law confer on the Supreme Court any further powers to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India subject to such conditions and limitations as may be specified in such law.

Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court.

135. Until Parliament by law otherwise provides, the Supreme Court shall also have jurisdiction and powers with respect to any matter to which the provisions of article 133 or article 134 do not apply if jurisdiction and powers in relation to that matter were exercisable by the Federal Court immediately before the commencement of this Constitution under any existing law.

Special leave to appeal by the Supreme Court.

136. (1) Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.

(2) Nothing in clause (1) shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.

Review of judgments or orders by the Supreme Court.

137. Subject to the provisions of any law made by Parliament or any rules made under article 145, the Supreme Court shall have power to review any judgment pronounced or order made by it.

Enlargement of the jurisdiction of the Supreme Court.

138. (1) The Supreme Court shall have such further jurisdiction and powers with respect to any of the matters in the Union List as Parliament may by law confer.

(2) The Supreme Court shall have such further jurisdiction and powers with respect to any matter as the Government of India and the Government of any State may by special agreement confer, if Parliament by law provides for the exercise of such jurisdiction and powers by the Supreme Court.

Conferment on the Supreme Court of powers to issue certain writs.

139. Parliament may by law confer on the Supreme Court power to issue directions, orders or writs, including writs in the nature of *habeas corpus, mandamus,* prohibition, *quo warranto* and *certiorari,* or any of them, for any purposes other than those mentioned in clause (2) of article 32.

Ancillary powers of Supreme Court.

140. Parliament may by law make provision for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the court more effectively to exercise the jurisdiction conferred upon it by or under this Constitution.

Law declared by Supreme Court to be binding on all.

141. The law declared by the Supreme Court shall be binding on all courts within the territory of India.

142. (1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.

Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.

143. (1) If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that Court for consideration and the court may, after such hearing as it thinks fit, report to the President its opinion thereon.

Power of President to consult Supreme Court.

(2) The President may, notwithstanding anything in clause (*i*) of the proviso to article 131, refer a dispute of the kind mentioned in the said clause to the Supreme Court for opinion and the Supreme Court shall, after such hearing as it thinks fit, report to the President its opinion thereon.

144. All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.

Civil and judicial authorities to act in aid of the Supreme Court.

145. (1) Subject to the provisions of any law made by Parliament, the Supreme Court may from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the Court including—

Rules of Court, etc.

(*a*) rules as to the persons practising before the court;

(*b*) rules as to the procedure for hearing appeals and other matters pertaining to appeals including the time within which appeals to the court are to be entered;

(*c*) rules as to the proceedings in the court for the enforcement of any of the rights conferred by Part III;

(*d*) rules as to the entertainment of appeals under sub-clause (*c*) of cluse (1) of article 134;

(*e*) rules as to the conditions subject to which any judgment pronounced or order made by the Court may be reviewed and the procedure for such review including the time within which applications to the court for such review are to be entered;

(*f*) rules as to the costs of and incidental to any proceedings in the court and as to the fees to be charged in respect of proceedings therein;

(*g*) rules as to the granting of bail;

(*h*) rules as to stay of proceedings;

(*i*) rules providing for the summary determination of any appeal which appears to the court to be frivolous or vexatious or brought for the purpose of delay;

(*j*) rules as to the procedure for inquiries referred to in clause (1) of article 317.

(2) Subject to the provisions of clause (3), rules made under this article may fix the minimum number of Judges who are to sit for any purpose, and may provide for the powers of single Judges and Division Courts.

(3) The minimum number of Judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution or for the purpose of hearing any reference under article 143 shall be five:

Provided that, where the Court hearing an appeal under any of the provisions of this Chapter other than article 132 consists of less than five Judges and in the course of the hearing of the appeal the Court is satisfied that the appeal involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the appeal, such Court shall refer the question for opinion to a Court constituted as required by this clause for the purpose of deciding any case involving such a question and shall on receipt of the opinion dispose of the appeal in conformity with such opinion.

(4) No judgment shall be delivered by the Supreme Court save in open Court, and no report shall be made under article 143 save in accordance with an opinion also delivered in open Court.

(5) No judgment and no such opinion shall be delivered by the Supreme Court save with the concurrence of a majority of the Judges present at the hearing of the case, but nothing in this clause shall be deemed to prevent a Judge who does not concur from delivering a dissenting judgment or opinion.

146. (1) Appointments of officers and servants of the Supreme Court shall be made by the Chief Justice of India or such other Judge or officer of the Court as he may direct:

Officers and servants and the expenses of the Supreme Court.

Provided that the President may by rule require that in such cases as may be specified in the rule, no person not already attached to the Court shall be appointed to any office connected with the Court, save after consultation with the Union Public Service Commission.

(2) Subject to the provisions of any law made by Parliament, the conditions of service of officers and servants of the Supreme Court shall be such as may be prescribed by rules made by the Chief Justice of India or by some other Judge or officer of the Court authorised by the Chief Justice of India to make rules for the purpose:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the President.

(3) The administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the Consolidated Fund of India, and any fees or other moneys taken by the Court shall form part of that Fund.

147. In this Chapter and in Chapter V of Part VI, references to any substantial question of law as to the interpretation of this Constitution shall be construed as including references to any substantial question of law as to the interpretation of the Government of India Act, 1935 (including any enactment amending or supplementing that Act), or of any Order in Council or order made thereunder, or of the Indian Independence Act, 1947, or of any order made thereunder.

Interpretation.

CHAPTER V.—COMPTROLLER AND AUDITOR-GENERAL OF INDIA.

148. (1) There shall be a Comptroller and Auditor-General of India who shall be appointed by the President by warrant under his hand and seal and shall only be removed from office in like manner and on the like grounds as a Judge of the Supreme Court.

Comptroller and Auditor-General of India.

(2) Every person appointed to be the Comptroller and Auditor-General of India shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

(3) The salary and other conditions of service of the Comptroller and Auditor-General shall be such as may be determined by Parliament by law and, until they are so determined, shall be as specified in the Second Schedule:

Provided that neither the salary of a Comptroller and Auditor-General nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

(4) The Comptroller and Auditor-General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

(5) Subject to the provisions of this Constitution and of any law made by Parliament, the conditions of service of persons serving in the Indian Audit and Accounts Department and the administrative powers of the Comptroller and Auditor-General shall be such as may be prescribed by rules made by the President after consultation with the Comptroller and Auditor-General.

(6) The administrative expenses of the office of the Comptroller and Auditor-General, including all salaries, allowances and pensions payable to or in respect of persons serving in that office, shall be charged upon the Consolidated Fund of India.

Duties and powers of the Comptroller and Auditor-General.

149. The Comptroller and Auditor-General shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States and of any other authority or body as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States as were conferred on or exercisable by the Auditor-General of India immediately before the commencement of this Constitution in relation to the accounts of the Dominion of India and of the Provinces respectively.

Power of Comptroller and Auditor-General to give directions as to accounts.

150. The accounts if the Union and of the States shall be kept in such form as the Comptroller and Auditor-General of India may, with the approval of the President, prescribe.

Audit reports.

151. (1) The reports of the Comptroller and Auditor-General of India relating to the accounts of the Union shall be submitted to the President, who shall cause them to be laid before each House of Parliament.

(2) The reports of the Comptroller and Auditor-General of India relating to the accounts of a State shall be submitted to the Governor or Rajpramukh of the State, who shall cause them to be laid before the Legislature of the State.

PART IV.

THE STATES IN PART A OF THE FIRST SCHEDULE.

CHAPTER I.—GENERAL.

152. In this Part, unless the context otherwise requires, the expression "State" means a State specified in Part A of the First Schedule. Definition.

CHAPTER II.—THE EXECUTIVE.

The Governor.

153. There shall be a Governor for each State. Governors of States

154. (1) The executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution. Executive power of State.

(2) Nothing in this article shall—

(*a*) be deemed to transfer to the Governor any functions conferred by any existing law on any other authority; or

(*b*) prevent Parliament or the Legislature of the State from conferring by law functions on any authority subordinate to the Governor.

155. The Governor of a State shall be appointed by the President by warrant under his hand and seal. Appointment of Governor.

156. (1) The Governor shall hold office during the pleasure of the President. Term of office of Governor.

(2) The Governor may, by writing under his hand addressed to the President, resign his office.

(3) Subject to the foregoing provisions of this article, a Governor shall hold office for a term of five years from the date on which he enters upon his office:

Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

Qualifications for appointment as Governor.

157. No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty-five years.

Conditions of Governor's office.

158. (1) The Governor shall not be a member of either House of Parliament or of a House of the Legislature of any State specified in the First Schedule, and if a member of either House of Parliament or of a House of the Legislature of any such State be appointed Governor, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Governor.

(2) The Governor shall not hold any other office of profit.

(3) The Governor shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

(4) The emoluments and allowances of the Governor shall not be diminished during his term of office.

Oath or affirmation by the Governor.

159. Every Governor and every person discharging the functions of the Governor shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of the High Court exercising jurisdiction in relation to the State, or in his absence, the seniormost Judge of that Court available, an oath or affirmation in the following form, that is to say—

"I, A.B., do $\frac{\text{swear in the name of God}}{\text{solemnly affirm}}$ that I will faithfully execute the office of Governor (or discharge the functions of the Governor) of..... (*name of the State*) and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well being of the people of..... (*name of the State.*)"

Discharge of the functions of the Governor in certain contingencies.

160. The President may make such provision as he thinks fit for the discharge of the functions of the Governor of a State in any contingency not provided for in this Chapter.

161. The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends.

Power of Governor to grant pardons, etc. and to suspend, remit or commute sentences in certain cases.

162. Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws :

Extent of executive power of State.

Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by this Constitution or by any law made by Parliament upon the Union or authorities thereof.

Council of Ministers.—

163. (1) There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.

Council of Ministers to aid and advise Governor.

(2) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion.

(3) The question whether any, and if so what, advice was tendered by Ministers to the Governor shall not be inquired into in any court.

164. (1) The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister and the Ministers shall hold office during the pleasure of the Governor ;

Other provisions as to Ministers

Provided that in the States of Bihar, Madhya Pradesh and Orissa, there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.

(2) The Council of Ministers shall be collectively responsible to the Legislative Assembly of the State.

(3) Before a Minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(4) A Minister who for any period of six consecutive months is not a member of the Legislature of the State shall at the expiration of that period cease to be a Minister.

(5) The salaries and allowances of Ministers shall be such as the Legislature of the State may from time to time by law determine and, until the Legislature of the State so determines, shall be as specified in the Second Schedule.

The Advocate-General for the State.

Advocate-General for the State.

165. (1) The Governor of each State shall appoint a person who is qualified to be appointed a Judge of a High Court to be Advocate-General for the State.

(2) It shall be the duty of the Advocate-General to give advice to the Government of the State upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the Governor, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) The Advocate-General shall hold office during the pleasure of the Governor, and shall receive such remuneration as the Governor may determine.

Conduct of Government Business.

Conduct of business of the Government of a State.

166. (1) All executive action of the Government of a State shall be expressed to be taken in the name of the Governor.

(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.

(3) The Governor shall make rules for the more convenient transaction of the business of the Government of the State, and for the allocation among Ministers of the said business in so far as it is not business with respect to which the Governor is by or under this Constitution required to act in his discretion.

167. It shall be the duty of the Chief Minister of each State—

Duties of Chief Minister as respects the furnishing of information to Governor, etc.

(*a*) to communicate to the Governor of the State all decisions of the Council of Ministers relating to the administration of the affairs of the State and proposals for legislation;

(*b*) to furnish such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for; and

(*c*) if the Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

CHAPTER III.—THE STATE LEGISLATURE.

General.

168. (1) For every State there shall be a Legislature which shall consist of the Governor, and

Constitution of Legislatures in States.

(*a*) in the States of Bihar, Bombay, Madras, Punjab, the United Provinces and West Bengal, two Houses;

(*b*) in other States, one House.

(2) Where there are two Houses of the Legislature of a State, one shall be known as the Legislative Council and the other as the Legislative Assembly and where there is only one House, it shall be known as the Legislative Assembly.

169. (1) Notwithstanding anything in article 168, Parliament may by law provide for the abolition of the Legislative Council of a State having such a Council or for the creation of such a Council in a State having no such Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting.

Abolition or creation of Legislative Councils in States.

(2) Any law referred to in clause (1) shall contain such provisions for the amendment of this Constitution as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions as Parliament may deem necessary.

(3) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

Composition of the Legislative Assemblies.

170. (1) Subject to the provisions of article 333, the Legislative Assembly of each State shall be composed of members chosen by direct election.

(2) The representation of each territorial constituency in the Legislative Assembly of a State shall be on the basis of the population of that constituency as ascertained at the last preceding census of which the relevant figures have been published and shall, save in the case of the autonomous districts of Assam and the constituency comprising the cantonment and municipality of Shillong, be on a scale of not more than one member for every seventy-five thousand of the population :

Provided that the total number of members in the Legislative Assembly of a State shall in no case be more than five hundred or less than sixty.

(3) The ratio between the number of members to be allotted to each territorial constituency in a State and the population of that constituency as ascertained at the last preceding census of which the relevant figures have been published shall, so far as practicable, be the same throughout the State.

(4) Upon the completion of each census, the representation of the several territorial constituencies in the Legislative Assembly of each State shall be readjusted by such authority, in such manner and with effect from such date as Parliament may by law determine :

Provided that such readjustment shall not affect representation in the Legislative Assembly until the dissolution of the then existing Assembly.

Composition of the Legislative Councils.

171. (1) The total number of members in the Legislative Council of a State having such a Council shall not exceed one-fourth of the total number of members in the Legislative Assembly of that State :

Provided that the total number of members in the Legislative Council of a State shall in no case be less than forty.

(2) Until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in clause (3).

(3) Of the total number of members of the Legislative Council of a State—

(*a*) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify ;

(*b*) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons residing in the State who have been for at least three years graduates of any university in the territory of India or have been for at least three years in possession of qualifications prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university;

(*c*) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in such educational institutions within the State, not lower in standard than that of a secondary school, as may be prescribed by or under any law made by Parliament;

(*d*) as nearly as may be, one-third shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly;

(*e*) the remainder shall be nominated by the Governor in accordance with provisions of clause (5).

(4) The members to be elected under sub-clauses (*a*), (*b*) and (*c*) of clause (3) shall be chosen in such territorial constituencies as may be prescribed by or under any law made by Parliament, and the elections under the said sub-clauses and under sub-clause (*d*) of the said clause shall be held in accordance with the system of proportional representation by means of the single transferable vote.

(5) The members to be nominated by the Governor under sub-clause (*e*) of clause (3) shall consist of persons having special knowledge or practical experience in respect of such matters as the following namely:—

Literature, science, art, co-operative movement and social service.

Duration of State Legislatures.

172. (1) Every Legislative Assembly of every State, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the Assembly:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

(2) The Legislative Council of a State shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the

expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

Qualification for membership of the State Legislature.

173. A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he—

(*a*) is a citizen of India;

(*b*) is, in the case of a seat in the Legislative Assembly, not less than twenty-five years of age and, in the case of a seat in the Legislative Council, not less than thirty years of age; and

(*c*) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Sessions of the State Legislature, prorogation and dissolution.

174. (1) The House or Houses of the Legislature of the State shall be summoned to meet twice at least in every year, and six months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session.

(2) Subject to the provisions of clause (1), the Governor may from time to time—

(*a*) summon the House or either House to meet at such time and place as he thinks fit;

(*b*) prorogue the House or Houses;

(*c*) dissolve the Legislative Assembly.

Right of Governor to address and send messages to the House or Houses.

175. (1) The Governor may address the Legislative Assembly or, in the case of a State having a Legislative Council, either House of the Legislature of the State, or both Houses assembled together, and may for that purpose require the attendance of members.

(2) The Governor may send messages to the House or Houses of the Legislature of the State, whether with respect to a Bill then pending in the Legislature or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

Special address by the Governor to the commencement of every session.

176. (1) At the commencement of every session, the Governor shall address the Legislative Assembly or, in the case of a State having a Legislative Council, both Houses assembled together and inform the Legislature of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of the House or either House for the allotment of time for discussion of the matters referred to in such address and for the precedence of such discussion over other business of the House.

177. Every Minister and the Advocate-General for a State shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly of the State or, in the case of a State having a Legislative Council, both Houses, and to speak in, and otherwise to take part in the proceedings of, any committee of the Legislature of which he may be named a member, but shall not, by virtue of this article, be entitled to vote.

Rights of Ministers and Advocate-General as respects the Houses.

Officers of the State Legislature.

178. Every Legislative Assembly of a State shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

The Speaker and Deputy Speaker of the Legislative Assembly.

179. A member holding office as Speaker or Deputy Speaker of an Assembly—

(*a*) shall vacate his office if he ceases to be a member of the Assembly;

(*b*) may at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and

(*c*) may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (*c*) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that, whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.

180. (1) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the Assembly as the Government may appoint for the purpose.

(2) During the absence of the Speaker from any sitting of the Assembly the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the Assembly, or, if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker.

The Speaker and the Deputy Speaker not to preside while a resolution for his removal from office is under consideration.

181. (1) At any sitting of the Legislative Assembly, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside and the provisions of clause (2) of article 180 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker, is absent.

(2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly while any resolution for his removal from office is under consideration in the Assembly and shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

The Chairman and Deputy Chairman of the Legislative Council.

182. The Legislative Council of every State having such Council shall, as soon as may be, choose two members of the Council to be respectively Chairman and Deputy Chairman thereof and, so often as the office of Chairman or Deputy Chairman becomes vacant, the Council shall choose another member to be Chairman or Deputy Chairman, as the case may be.

Vacation and resignation of, and removal from, the offices of Chairman and Deputy Chairman.

183. A member holding office as Chairman or Deputy Chairman of a Legislative Council—

(*a*) shall vacate his office if he ceases to be a member of the Council,

(*b*) may at any time by writing under his hand addressed, if such member is the Chairman, to the Deputy Chairman, and if such member is the Deputy Chairman, to the Chairman, resign his office; and

(*c*) may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that no resolution for the purpose of clause (*c*) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman.

184. (1) While the office of Chairman is vacant, the duties of the office shall be performed by the Deputy Chairman or, if the office of Deputy Chairman is also vacant, by such member of the Council as the Governor may appoint for the purpose.

(2) During the absence of the Chairman from any sitting of the Council the Deputy Chairman or, if he is also absent, such person as may be determined by the rules of procedure

of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration.

185. (1) At any sitting of the Legislative Council, while any resolution for the removal of the Chairman from his office is under consideration, the Chairman, or while any resolution for the removal of the Deputy Chairman from his office is under consideration, the Deputy Chairman, shall not, though he is present, preside, and the provisions of clause (2) of article 184 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Chairman or, as the case may be, the Deputy Chairman is absent.

(2) The Chairman shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Council while any resolution for his removal from office is under consideration in the Council and shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

Salaries and allowances of the Speaker and Deputy Speaker and the Chairman and Deputy Chairman.

186. There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly, and to the Chairman and the Deputy Chairman of the Legislative Council, such salaries and allowances as may be respectively fixed by the Legislature of the State by law and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

Secretariat of State Legislature.

187. (1) The House or each House of the Legislature of a State shall have a separate secretarial staff :

Provided that nothing in this clause shall, in the case of the Legislature of a State having a Legislative Council, be construed as preventing the creation of posts common to both Houses of such Legislature.

(2) The Legislature of a State may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the House or Houses of the Legislature of the State.

(3) Until provision is made by the Legislature of the State under clause (2), the Governor may, after consultation with the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be, make rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Assembly or

the Council, and any rules so made shall have effect subject to the provisions of any law made under the said clause.

Conduct of Business.

Oath or affirmation by members.

188. Every member of the Legislative Assembly or the Legislative Council of a State shall, before taking his seat, make and subscribe before the Governor, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

Voting in Houses, power of Houses to act notwithstanding vacancies and quorum.

189. (1) Save as otherwise provided in this Constitution all questions at any sitting of a House of the Legislature of a State shall be determined by a majority of votes of the members present and voting, other than the Speaker or Chairman, or person acting as such.

The Speaker or Chairman, or person acting as such, shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of vote.

(2) A House of the Legislature of a State shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislature of a State shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled to do sat or voted or otherwise took part in the proceedings.

(3) Until the Legislature of the State by law otherwise provides, the quorum to constitute a meeting of a House of the Legislature of a State shall be ten members or one-tenth of the total number of members of the House, whichever is greater.

(4) If at any time during a meeting of the Legislative Assembly or the Legislative Council of a State there is no quorum, it shall be the duty of the Speaker or Chairman, or person acting as such, either to adjourn the House or to suspend the meeting until there is a quorum.

Disqualifications of Members.

Vacation of seats.

190. (1) No person shall be a member of both Houses of the Legislature of a State and provision shall be made by the Legislature of the State by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

(2) No person shall be a member of the Legislatures of two or more States specified in the First Schedule and if a person is chosen a member of the Legislatures of two or more

such States, then, at the expiration of such period as may be specified in rules made by the President, that person's seat in the Legislatures of all such States shall become vacant, unless he has previously resigned his seat in the Legislatures of all but one of the States.

(3) If a member of a House of the Legislature of a State—

(*a*) becomes subject to any of the disqualifications mentioned in clause (1) of article 191; or

(*b*) resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be,

his seat shall thereupon become vacant.

(4) If for a period of sixty days a member of a House of the Legislature of a State is without permission of the House absent from all meetings thereof, the House may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

Disqualifications for membership.

191. (1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative Council of a State—

(*a*) if he holds any office of profit under the Government of India or the Government of any State specified in the First Schedule, other than an office declared by the Legislature of the State by law not to disqualify its holder;

(*b*) if he is of unsound mind and stands so declared by a competent court;

(*c*) if he is an undischarged insolvent;

(*d*) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State;

(*e*) if he is so disqualified by or under any law made by Parliament.

(2) For the purposes of this article, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State specified in the First Schedule by reason only that he is a Minister either for the Union or for such State.

Decision on questions as to disqualifications of members.

192. (1) If any question arises as to whether a member of a House of the Legislature of a State has become subject to any of the disqualifications mentioned in clause (1) of article 191, the question shall be referred for the decision of the Governor and his decision shall be final.

(2) Before giving any decision on any such question, the Governor shall obtain the opinion of the Election Commission and shall act according to such opinion.

Penalty for sitting and voting before making oath or affirmation under article 188 or when not qualified or when disqualified.

193. If a person sits or votes as a member of the Legislative Assembly or the Legislative Council of a State before he has complied with the requirements of article 188, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament or the Legislature of the State, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the State.

Powers, Privileges and Immunities of State Legislatures and their Members.

Powers, privileges, etc., of the Houses of Legislatures and of the members and committees thereof.

194. (1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Legislature, there shall be freedom of speech in the Legislature of every State.

(2) No member of the Legislature of a State shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a House of such a Legislature of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of a House of the Legislature of a State, and of the members and the committees of a House of such Legislature, shall be such as may from time to time be defined by the Legislature by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution.

(4) The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of, a House of the Legislature of a State or any committee thereof as they apply in relation to members of that Legislature.

195. Members of the Legislative Assembly and the Legislative Council of a State shall be entitled to receive such salaries and allowances as may from time to time be determined by the Legislature of the State by law and, until provision in that respect is so made, salaries and allowances at such rates and upon such conditions as were immediately before the commencement of this Constitution applicable in the case of members of the Legislative Assembly of the corresponding Province.

Salaries and allowances of members.

Legislative Procedure.

196. (1) Subject to the provisions of articles 198 and 207 with respect to Money Bills and other financial Bills, a Bill may originate in either House of the Legislature of a State which has a Legislative Council.

Provisions as to introduction and passing of Bills.

(2) Subject to the provisions of articles 197 and 198, a Bill shall not be deemed to have been passed by the Houses of the Legislature of a State having a Legislative Council unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.

(3) A Bill pending in the Legislature of a State shall not lapse by reason of the prorogation of the House or Houses thereof.

(4) A Bill pending in the Legislative Council of a State which has not been passed by the Legislative Assembly shall not lapse on a dissolution of the Assembly.

(5) A Bill which is pending in the Legislative Assembly of a State, or which having been passed by the Legislative Assembly is pending in the Legislative Council, shall lapse on a dissolution of the Assembly.

197. (1) If after a Bill has been passed by the Legislative Assembly of a State having a Legislative Council and transmitted to the Legislative Council—

Restriction on powers of Legislative Council as to Bills other than Money Bills.

(*a*) the Bill is rejected by the Council; or

(*b*) more than three months elapse from the date on which the Bill is laid before the Council without the Bill being passed by it; or

(*c*) the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree,

the Legislative Assembly may, subject to the rules regulating its procedure, pass the Bill again in the same or in any subsequent session with or without such amendments, if any, as have been made, suggested or agreed to by the Legislative Council and then transmit the Bill as so passed to the Legislative Council.

(2) If after a Bill has been so passed for the second time by the Legislative Assembly and transmitted to the Legislative Council—

(*a*) the Bill is rejected by the Council; or

(*b*) more than one month elapses from the date on which the Bill is laid before the Council without the Bill being passed by it; or

(*c*) the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree,

the Bill shall be deemed to have been passed by the Houses of the Legislature of the State in the form in which it was passed by the Legislative Assembly for the second time with such amendments, if any, as have been made or suggested by the Legislative Council and agreed to by the Legislative Assembly.

(3) Nothing in this article shall apply to a Money Bill.

Special procedure in respect of Money Bills.

198. (1) A Money Bill shall not be introduced in a Legislative Council.

(2) After a Money Bill has been passed by the Legislative Assembly of a State having a Legislative Council, it shall be transmitted to the Legislative Council for its recommendations, and the Legislative Council shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the Legislative Assembly with its recommendations, and the Legislative Assembly may thereupon either accept or reject all or any of the recommendations of the Legislative Council.

(3) If the Legislative Assembly accepts any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Legislative Council and accepted by the Legislative Assembly.

(4) If the Legislative Assembly does not accept any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the Legislative Assembly without any of the amendments recommended by the Legislative Council.

(5) If a Money Bill passed by the Legislative Assembly and transmitted to the Legislative Council for its recommendations is not returned to the Legislative Assembly within the said period of fourteen days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the Legislative Assembly.

Definition of "Money Bills".

199. (1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely :—

(*a*) the imposition, abolition, remission, alteration or regulation of any tax ;

(*b*) the regulation of the borrowing of money or the giving of any guarantee by the State, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the State ;

(*c*) the custody of the Consolidated Fund or the Contingency Fund of the State, the payment of moneys into or the withdrawal of moneys from any such Fund ;

(*d*) the appropriation of moneys out of the Consolidated Fund of the State ;

(*e*) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of the State, or the increasing of the amount of any such expenditure ;

(*f*) the receipt of money on account of the Consolidated Fund of the State or the public account of the State or the custody or issue of such money ; or

(*g*) any matter incidental to any of the matters specified in sub-clauses (*a*) to (*f*).

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill introduced in the Legislature of a State which has a Legislative Council is a Money Bill or not, the decision of the Speaker of the Legislative Assembly of such State thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Legislative Council under article 198, and when it is presented to the Governor for assent under article 200, the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

Assent to Bills.

200. When a Bill has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the State, it shall be presented to the Governor and the Governor shall declare either that he assents to the

Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President :

Provided that the Governor may, as soon as possible after the presentation to him of the Bill for assent, return the Bill if it is not a Money Bill together with a message requesting that the House or Houses will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the House or Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the House or Houses with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom :

Provided further that the Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which in the opinion of the Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is by this Constitution designed to fill.

Bills reserved for consideration.

201. When a Bill is reserved by a Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom :

Provided that, where the Bill is not a Money Bill, the President may direct the Governor to return the Bill to the House or, as the case may be, the Houses of the Legislature of the State together with such a message as is mentioned in the first proviso to article 200 and, when a Bill is so returned, the House or Houses shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the House or Houses with or without amendment, it shall be presented again to the President for his consideration.

Procedure in Financial Matters.

Annual financial statement.

202. (1) The Governor shall in respect of every financial year cause to be laid before the House or Houses of the Legislature of the State a statement of the estimated receipts and expenditure of the State for that year, in this Part referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(*a*) the sums required to meet expenditure described by this Constitution as expenditure charged upon the Consolidated Fund of the State ; and

(*b*) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of the State; and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the Consolidated Fund of each State:—

(*a*) the emoluments and allowances of the Governor and other expenditure relating to his office;

(*b*) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly and, in the case of a State having a Legislative Council, also of the Chairman and the Deputy Chairman of the Legislative Council;

(*c*) debt charges for which the State is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

(*d*) expenditure in respect of the salaries and allowances of Judges of any High Court;

(*e*) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;

(*f*) any other expenditure declared by this Constitution, or by the Legislature of the State by law, to be so charged.

Procedure in Legislature with respect to estimates.

203. (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of a State shall not be submitted to the vote of the Legislative Assembly, but nothing in this clause shall be construed as preventing the discussion in the Legislature of any of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Governor.

Appropriation Bills.

204. (1) As soon as may be after the grants under article 203 have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State of all moneys required to meet—

(*a*) the grants so made by the Assembly; and

(*b*) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the statement previously laid before the House or Houses.

(2) No amendment shall be proposed to any such Bill in the House or either House of the Legislature of the State which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of the State and the decision of the person presiding as to whether an amendment is inadmissible under this clause shall be final.

(3) Subject to the provisions of articles 205 and 206, no money shall be withdrawn from the Consolidated Fund of the State except under appropriation made by law passed in accordance with the provisions of this article.

Supplementary, additional or excess grants.

205. (1) The Governor shall—

(*a*) if the amount authorised by any law made in accordance with the provisions of article 204 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(*b*) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year,

cause to be laid before the House or the Houses of the Legislature of the State another statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly of the State a demand for such excess, as the case may be.

(2) The provisions of articles 202, 203 and 204 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure of the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or grant.

Votes on account, votes of credit and exceptional grants.

206. (1) Notwithstanding anything in the foregoing provisions of this Chapter, the Legislative Assembly of a State shall have power—

(*a*) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 203

for the voting of such grant and the passing of the law in accordance with the provisions of article 204 in relation to that expenditure;

(*b*) to make a grant for meeting an unexpected demand upon the resources of the State when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;

(*c*) to make an exceptional grant which forms no part of the current service of any financial year;

and the Legislature of the State shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of the State for the purposes for which the said grants are made.

(2) The provisions of articles 203 and 204 shall have effect in relation to the making of any grant under clause (1) and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure.

Special provisions as to financial Bills.

207. (1) A Bill or amendment making provision for any of the matters specified in sub-clauses (*a*) to (*f*) of clause (1) of article 199 shall not be introduced or moved except on the recommendation of the Governor, and a Bill making such provision shall not be introduced in a Legislative Council:

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of a State shall not be passed by a House of the Legislature of the State unless the Governor has recommended to that House the consideration of the Bill.

Procedure Generally.

Rules of procedure.

208. (1) A House of the Legislature of a State may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business.

(2) Until rules are made under clause (1), the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature for the corresponding Province shall have effect in relation to the Legislature of the State subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly, or the Chairman of the Legislative Council, as the case may be.

(3) In a State having a Legislative Council the Governor, after consultation with the Speaker of the Legislative Assembly and the Chairman of the Legislative Council, may make rules as to the procedure with respect to communications between the two Houses.

Regulation by law of procedure in the Legislature of the State in relation to financial business.

209. The Legislature of a State may, for the purpose of the timely completion of financial business, regulate by law the procedure of and the conduct of business in, the House or Houses of the Legislature of the State in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the State, and, if and so far as any provision of any law so made is inconsistent with any rule made by the House or either House of the Legislature of the State under clause (1) of article 208 or with any rule or standing order having effect in relation to the Legislature of the State under clause (2) of that article, such provision shall prevail.

Language to be used in the Legislature.

210. (1) Notwithstanding anything in Part XVII, but subject to the provisions of article 348, business in the Legislature of a State shall be transacted in the official language or languages of the State or in Hindi or in English :

Provided that the Speaker of the Legislative Assembly or Chairman of the Legislative Council, or person acting as such, as the case may be, may permit any member who cannot adequately express himself in any of the languages aforesaid to address the House in his mother-tongue.

(2) Unless the Legislature of the State by law otherwise provides, this article shall, after the expiration of a period of fifteen years from the commencement of this Constitution, have effect as if the words "or in English" were omitted therefrom.

211. No discussion shall take place in the Legislature of a State with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties.

Restriction on discussion in the Legislature.

212. (1) The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure.

Courts not to inquire into proceedings of the Legislature.

(2) No officer or member of the Legislature of a State in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in the Legislature shall be subject to the jurisdiction of any Court in respect of the exercise by him of those powers.

CHAPTER IV.—LEGISLATIVE POWER OF THE GOVERNOR.

Power of Governor to promulgate Ordinances during recess of Legislature.

213. (1) If at any time, except when the Legislative Assembly of a State is in session, or where there is a Legislative Council in a State, except when both Houses of the Legislature are in session, the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require:

Provided that the Governor shall not, without instructions from the President, promulgate any such Ordinance if—

(*a*) a Bill containing the same provisions would under this Constitution have required the previous sanction of the President for the introduction thereof into the Legislature; or

(*b*) he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the President; or

(*c*) an Act of the Legislature of the State containing the same provisions would under this Constitution have been invalid unless, having been reserved for the consideration of the President, it had received the assent of the President.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of the Legislature of the State assented to by the Governor, but every such Ordinance—

(*a*) shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses, and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature, or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly and agreed to

by the Legislative Council, if any, upon the passing of the resolution or, as the case may be, on the resolution being agreed to by the Council; and

(*b*) may be withdrawn at any time by the Governor.

Explanation.—Where the Houses of the Legislature of a State having a Legislative Council are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which would not be valid if enacted in an Act of the Legislature of the State assented to by the Governor, it shall be void:

Provided that, for the purposes of the provisions of this Constitution relating to the effect of an Act of the Legislature of a State which is repugnant to an Act of Parliament or an existing law with respect to a matter enumerated in the Concurrent List, an Ordinance promulgated under this article in pursuance of instructions from the President shall be deemed to be an Act of the Legislature of the State which has been reserved for the consideration of the President and assented to by him.

CHAPTER V.—THE HIGH COURTS IN THE STATES.

High Courts for States.

214. (1) There shall be a High Court for each State.

(2) For the purposes of this Constitution the High Court exercising jurisdiction in relation to any Province immediately before the commencement of this Constitution shall be deemed to be the High Court for the corresponding State.

(3) The provisions of this Chapter shall apply to every High Court referred to in this article.

High Courts to be courts of record.

215. Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

Constitution of High Courts.

216. Every High Court shall consist of a Chief Justice and such other Judges as the President may from time to time deem it necessary to appoint:

Provided that the Judges so appointed shall at no time exceed in number such maximum number as the President may, from time to time, by order fix in relation to that Court.

Appointment and conditions of the office of a Judge of a High Court.

217. (1) Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State, and, in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court, and shall hold office until he attains the age of sixty years :

Provided that—

(*a*) a Judge may, by writing under his hand addressed to the President, resign his office ;

(*b*) a Judge may be removed from his office by the President in the manner provided in clause (4) of article 124 for the removal of a Judge of the Supreme Court ;

(*c*) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India.

(2) A person shall not be qualified for appointment as a Judge of a High Court unless he is a citizen of India and—

(*a*) has for at least ten years held a judicial office in the territory of India ; or

(*b*) has for at least ten years been an advocate of a High Court in any State specified in the First Schedule or of two or more such Courts in succession.

Explanation.—For the purposes of this clause—

(*a*) in computing the period during which a person has been an advocate of a High Court, there shall be included any period during which the person has held judicial office after he became an advocate ;

(*b*) in computing the period during which a person has held judicial office in the territory of India or been an advocate of a High Court, there shall be included any period before the commencement of this Constitution during which he has held judicial office in any area which was comprised before the fifteenth day of August, 1947, within India as defined by the Government of India Act, 1935, or has been an advocate of any High Court in any such area, as the case may be.

Application of certain provisions relating to Supreme Court to High Courts.

218. The provisions of clauses (4) and (5) of article 124 shall apply in relation to a High Court as they apply in relation to the Supreme Court with the substitution of references to the High Court for references to the Supreme Court.

Oath or affirmation by Judges of High Courts.

219. Every person appointed to be a Judge of a High Court in a State shall, before he enters upon his office, make and subscribe before the Governor of the State, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

Prohibition of practising in courts or before any authority by Judges.

220. No person who has held office as a Judge of a High Court after the commencement of this Constitution shall plead or act in any court or before any authority within the territory of India.

Salaries etc., of Judges.

221. (1) There shall be paid to the Judges of each High Court such salaries as are specified in the Second Schedule.

(2) Every Judge shall be entitled to such allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such allowances and rights as are specified in the Second Schedule:

Provided that neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

Transfer of a Judge from one High Court to another.

222. (1) The President may, after consultation with the Chief Justice of India, transfer a Judge from one High Court to any other High Court within the territory of India.

(2) When a Judge is so transferred, he shall, during the period he serves as a Judge of the other Court, be entitled to receive in addition to his salary such compensatory allowance as may be determined by Parliament by law and, until so determined, such compensatory allowance as the President may by order fix.

Appointment of acting Chief Justice.

223. When the office of Chief Justice of a High Court is vacant or when any such Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

Attendance of retired Judges at sittings of High Courts.

224. Notwithstanding anything in this Chapter, the Chief Justice of a High Court for any State may at any time, with the previous consent of the President, request any person who has held the office of a Judge of that Court or of any other High Court to sit and act as a Judge of the High Court for that State, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the

President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that High Court:

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that High Court unless he consents so to do.

Jurisdiction of existing High Courts.

225. Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by this Constitution, the jurisdiction of, and the law administered in, any existing High Court, and the respective powers of the Judges thereof in relation to the administration of justice in the Court, including any power to make rules of Court and to regulate the sittings of the Court and of members thereof sitting alone or in Division Courts, shall be the same as immediately before the commencement of this Constitution:

Provided that any restriction to which the exercise of original jurisdiction by any of the High Courts with respect to any matter concerning the revenue or concerning any act ordered or done in the collection thereof was subject immediately before the commencement of this Constitution shall no longer apply to the exercise of such jurisdiction.

Power of High Courts to issue certain writs.

226. (1) Notwithstanding anything in article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority including in appropriate cases any Government, within those territories directions, orders or writs, including writs in the nature of *habeas corpus, mandamus,* prohibition, *quo warranto* and *certiorari,* or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred on a High Court by clause (1) shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.

Power of superintendence over all courts by the High Court.

227. (1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.

(2) Without prejudice to the generality of the foregoing provision, the High Court may—

(*a*) call for returns from such courts;

(*b*) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and

(*c*) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.

(3) The High Court may also settle tables of fees to be allowed to the Sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein :

Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor.

(4) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces.

Transfer of certain cases to High Court.

228. If the High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the case, it shall withdraw the case and may—

(*a*) either dispose of the case itself, or

(*b*) determine the said question of law and return the case to the court from which the case has been so withdrawn together with a copy of its judgment on such question, and the said court shall on receipt thereof proceed to dispose of the case in conformity with such judgment.

Officers and servants and the expenses of High Courts.

229. (1) Appointments of officers and servants of a High Court shall be made by the Chief Justice of the Court or such other Judge or officer of the Court as he may direct :

Provided that the Governor of the State in which the High Court has its principal seat may by rule require that in such cases as may be specified in the rule no person not already attached to the Court shall be appointed to any office connected with the Court save after consultation with the State Public Service Commission.

(2) Subject to the provisions of any law made by the Legislature of the State, the conditions of service of officers and servants of a High Court shall be such as may be prescribed by rules made by the Chief Justice of the Court or by some other Judge or officer of the Court authorised by the Chief Justice to make rules for the purpose :

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor of the State in which the High Court has its principal seat.

(3) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect

of the officers and servants of the Court, shall be charged upon the Consolidated Fund of the State, and any fees or other moneys taken by the Court shall form part of that Fund.

Extension of or exclusion from the jurisdiction of High Courts.

230. Parliament may by law—

(*a*) extend the jurisdiction of a High Court to, or

(*b*) exclude the jurisdiction of a High Court from,

any State specified in the First Schedule other than, or any area not within, the State in which the High Court has its principal seat.

Restrictions on the powers of the Legislatures of States to make laws with respect to jurisdiction of a High Court in a State having jurisdiction outside that State.

231. Where a High Court exercises jurisdiction in relation to any area outside the State in which it has its principal seat, nothing in this Constitution shall be construed—

(*a*) as empowering the Legislature of the State in which the Court has its principal seat to increase, restrict or abolish that jurisdiction;

(*b*) as empowering the Legislature of a State specified in Part A or Part B of the First Schedule in which any such area is situate, to abolish that jurisdiction; or

(*c*) as preventing the Legislature having power to make laws in that behalf for any such area, from passing, subject to the provisions of clause (*b*), such laws with respect to the jurisdiction of the Court in relation to that area as it would be competent to pass if the principal seat of the Court were in that area.

Interpretation.

232. Where a High Court exercises jurisdiction in relation to more than one State specified in the First Schedule or in relation to a State and an area not forming part of the State—

(*a*) references in this Chapter to the Governor in relation to the Judges of a High Court shall be construed as references to the Governor of the State in which the Court has its principal seat;

(*b*) the reference to the approval by the Governor of rules, forms and tables for subordinate courts shall be construed as a reference to the approval thereof by the Governor or the Rajpramukh of the State in which the subordinate court is situate, or if it is situate in an area not forming part of any State specified in Part A or Part B of the First Schedule, by the President; and

---

as may be prescribed in that behalf by the President" shall be inserted.

(*c*) references to the Consolidated Fund of the State shall be construed as references to the Consolidated Fund of the State in which the Court has its principal seat.

CHAPTER VI.—SUBORDINATE COURTS.

Appointment of district judges.

233. (1) Appointments of persons to be, and the posting and promotion of, district judges in any State shall be made by the Governor of the State in consultation with the High Court exercising jurisdiction in relation to such State.

(2) A person not already in the service of the Union or of the State shall only be eligible to be appointed a district judge if he has been for not less than seven years an advocate or a pleader and is recommended by the High Court for appointment.

Recruitment of persons other than district judges to the judicial service.

234. Appointments of persons other than district judges to the judicial service of a State shall be made by the Governor of the State in accordance with rules made by him in that behalf after consultation with the State Public Service Commission and with the High Court exercising jurisdiction in relation to such State.

Control over subordinate courts.

235. The control over district courts and courts subordinate thereto including the posting and promotion of, and the grant of leave to, persons belonging to the judicial service of a State and holding any post inferior to the post of district judge shall be vested in the High Court, but nothing in this article shall be construed as taking away from any such person any right of appeal which he may have under the law regulating the conditions of his service or as authorizing the High Court to deal with him otherwise than in accordance with the conditions of his service prescribed under such law.

Interpretation.

236. In this Chapter—

(*a*) the expression "district judge" includes judge of a city civil court, additional district judge, joint district judge, assistant district judge, chief judge of a small cause court, chief presidency magistrate, additional chief presidency magistrate, sessions judge, additional sessions judge and assistant sessions judge;

(*b*) the expression "judicial service" means a service consisting exclusively of persons intended to fill the post of district judge and other civil judicial posts inferior to the post of district judge.

237. The Governor may by public notification direct that the foregoing provisions of this Chapter and any rules made thereunder shall, with effect from such date as may be fixed by him in that behalf, apply in relation to any class or classes of magistrates in the State as they apply in relation to persons appointed to the judicial service of the State subject to such exceptions and modifications as may be specified in the notification.

Application of the provisions of this Chapter to certain class or classes of magistrates.

PART VII.

THE STATES IN PART B OF THE FIRST SCHEDULE.

238. The provisions of Part VI shall apply in relation to the States specified in Part B of the First Schedule as they apply in relation to the States specified in Part A of that Schedule subject to the following modifications and omissions, namely :—

Application of provisions of Part VI to States in Part B of the First Schedule.

(1) For the word "Governor" wherever it occurs in the said Part VI, except where it occurs for the second time in clause (*b*) of article 232, the word "Rajpramukh" shall be substituted.

(2) In Article 152, for the word and letter "Part A" the word and letter "Part B" shall be substituted.

(3) Articles 155, 156 and 157 shall be omitted.

(4) In article 158—

(*i*) in clause (1), for the words "be appointed" the word "becomes" shall be substituted;

(*ii*) for clause (3), the following clause shall be substituted, namely :—

"(3) The Rajpramukh shall, unless he has his own residence in the principal seat of Government of the State, be entitled without payment of rent to the use of an official residence and shall be also entitled to such allowances and privileges as the President may, by general or special order, determine.";

(*iii*) in clause (4), the words "emoluments and" shall be omitted.

(5) In article 159, after the words "seniormost Judge of that Court available" the words "or in such other manner as may be prescribed in that behalf by the President" shall be inserted.

(6) In article 164, for the proviso to clause (1), the following proviso shall be substituted, namely :—

"Provided that in the State of Madhya Bharat there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work."

(7) In article 168, for clause (1), the following clause shall be substituted, namely :—

"(1) For every State there shall be a Legislature which shall consist of the Rajpramukh and—

(*a*) in the State of Mysore, two Houses ;

(*b*) in other States, one House."

(8) In article 186, for the words "as are specified in the Second Schedule" the words "as the Rajpramukh may determine" shall be substituted.

(9) In article 195, for the words "as were immediately before the commencement of this Constitution applicable in the case of members of the Legislative Assembly of the corresponding Province" the words "as the Rajpramukh may determine" shall be substituted.

(10) In clause (3) of article 202—

(*i*) for sub-clause (*a*), the following sub-clause shall be substituted, namely :—

"(*a*) the allowances of the Rajpramukh and other expenditure relating to his office as determined by the President by general or special order ;"

(*ii*) for sub-clause (*f*), the following sub-clauses shall be substituted, namely :—

"(*f*) in the case of the State of Travancore-Cochin, a sum of fifty-one lakhs of rupees required to be paid annually to the Devaswom fund under the covenant entered into before the commencement of this Constitution by the Rulers of the Indian States of Travancore and Cochin for the formation of the United State of Travancore and Cochin ;

(*g*) any other expenditure declared by this Constitution, or by the Legislature of the State by law, to be so charged."

(11) In article 208, for clause (2), the following clause shall be substituted, namely :—

"(2) Until rules are made under clause (1), the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature for the State or, where no house of the Legislature for the State existed, the rules of procedure and standing orders in force immediately before such commencement with

respect to the Legislative Assembly of such Province as may be specified in that behalf by the Rajpramukh of the State, shall have effect in relation to the Legislature of the State subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be."

(12) In clause (2) of article 214, for the word "Province" the words "Indian State" shall be substituted.

(13) For article 221, the following article shall be substituted, namely :— Salaries, etc., of Judges.

"221. (1) There shall be paid to the Judges of each High Court such salaries as may be determined by the President after consultation with the Rajpramukh.

(2) Every Judge shall be entitled to such allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such allowances and rights as may be determined by the President after cosultation with the Rajpramukh :

Provided that neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment."

PART VIII.

THE STATES IN PART C OF THE FIRST SCHEDULE.

239. (1) Subject to the other provisions of this Part, a State specified in Part C of the First Schedule shall be administered by the President acting, to such extent as he thinks fit, through a Chief Commissioner or a Lieutenant-Governor to be appointed by him or through the Government of a neighbouring State : Administration of States in Part C of the First Schedule.

Provided that the President shall not act through the Government of a neighbouring State save after —

(*a*) consulting the Government concerned ; and

(*b*) ascertaining in such manner as the President considers most appropriate the views of the people of the State to be so administered.

(2) In this article, references to a State shall include references to a part of a State.

Part VIII.—The States in Part C of the First Schedule.—Arts. 240-242.

Creation or continuance of local Legislatures or Council of Advisers or Ministers.

240. (1) Parliament may by law create or continue for any State specified in Part C of the First Schedule and administered through a Chief Commissioner or Lieutenant-Governor—

(*a*) a body, whether nominated, elected or partly nominated and partly elected, to function as a Legislature for the State; or

(*b*) a Council of Advisers or Ministers,

or both with such constitution, powers and functions, in each case, as may be specified in the law.

(2) Any such law as is referred to in clause (1) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending the Constitution.

High Courts for States in Part C of the First Schedule.

241. (1) Parliament may by law constitute a High Court for a State specified in Part C of the First Schedule or declare any court in any such State to be a High Court for all or any of the purposes of this Constitution.

(2) The provisions of Chapter V of Part VI shall apply in relation to every High Court referred to in clause (1) as they apply in relation to a High Court referred to in article 214 subject to such modifications or exceptions as Parliament may by law provide.

(3) Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by or under this Constitution, every High Court exercising jurisdiction immediately before the commencement of this Constitution in relation to any State specified in Part C of the First Schedule or any area included therein shall continue to exercise such jurisdiction in relation to that State or area after such commencement.

(4) Nothing in this article derogates from the power of Parliament to extend or exclude the jurisdiction of a High Court in any State specified in Part A or Part B of the First Schedule to, or from, any State specified in Part C of that Schedule or any area included within that State.

Coorg.

242. (1) Until Parliament by law otherwise provides, the constitution, powers and functions of the Coorg Legislative Council shall be the same as they were immediately before the commencement of this Constitution.

(2) The arrangements with respect to revenues collected in Coorg and expenses in respect of Coorg shall, until other provision is made in that behalf by the President by order, continue unchanged.

Part IX.—The Territories in Part D of the First Schedule and other Territories not specified in that Schedule.—Art. 243.

Part X.—The Scheduled and Tribal Areas.—Art. 244.

Part XI.—Relations between the Union and the States.—Art. 245.

PART IX.

THE TERRITORIES IN PART D OF THE FIRST SCHEDULE AND OTHER TERRITORIES NOT SPECIFIED IN THAT SCHEDULE.

243. (1) Any territory specified in Part D of the First Schedule and any other territory comprised within the territory of India but not specified in that Schedule shall be administered by the President acting, to such extent as he thinks fit, through a Chief Commissioner other authority to be appointed by him.

Administration of territories specified in Part D of the First Schedule and other territories not specified in that Schedule.

(2) The President may make regulations for the peace and good government of any such territory and any regulation so made may repeal or amend any law made by Parliament or any existing law which is for the time being applicable to such territory and, when promulgated by the President, shall have the same force and effect as an Act of Parliament which applies to such territory.

PART X.

THE SCHEDULED AND TRIBAL AREAS.

244. (1) The provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State specified in Part A or Part B of the First Schedule other than the State of Assam.

Administration of Scheduled Areas and tribal areas.

(2) The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the State of Assam.

PART XI.

RELATIONS BETWEEN THE UNION AND THE STATES.

CHAPTER I.—LEGISLATIVE RELATIONS.

Distribution of Legislative Powers.

245. (1) Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.

Extent of laws made by Parliament and by the Legislatures of States.

(2) No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.

Subject-matter of laws made by Parliament and by the Legislatures of States.

246. (1) Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the "Union List").

(2) Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State specified in Part A or Part B of the First Schedule also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the "Concurrent List").

(3) Subject to clauses (1) and (2), the Legislature of any State specified in Part A or Part B of the First Schedule has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List").

(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included in Part A or Part B of the First Schedule notwithstanding that such matter is a matter enumerated in the State List.

Power of Parliament to provide for the establishment of certain additional courts.

247. Notwithstanding anything in this Chapter, Parliament may by law provide for the establishment of any additional courts for the better administration of laws made by Parliament or of any existing law with respect to a matter enumerated in the Union List.

Residuary powers of legislation.

248. (1) Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.

(2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.

Power of Parliament to legislate with respect to a matter in the State List in the national interest.

249. (1) Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force.

(2) A resolution passed under clause (1) shall remain in force for such period not exceeding one year as may be specified therein :

Provided that, if and so often as a resolution approving the continuance in force of any such resolution is passed in the manner provided in clause (1), such resolution shall continue in force for a further period of one year from the date on which under this clause it would otherwise have ceased to be in force.

(3) A law made by Parliament which Parliament would not but for the passing of a resolution under clause (1) have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the resolution has ceased to be in force, except as respects things done or omitted to be done before the expiration of the said period.

Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation.

250. (1) Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in the State List.

(2) A law made by Parliament which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period.

Inconsistency between laws made by Parliament under articles 249 and 250 and laws made by the Legislatures of States.

251. Nothing in articles 249 and 250 shall restrict the power of the Legislature of a State to make any law which under this Constitution it has power to make, but if any provision of a law made by the Legislature of a State is repugnant to any provision of a few made by Parliament which Parliament has under either of the said articles power to make, the law made by Parliament, whether passed before or after the law made by the Legislature of the State, shall prevail, and the law made by the Legislature of the State shall to the extent of the repugnancy, but so long only as the law made by Parliament continues to have effect, be inoperative.

Power of Parliament to legislate for two or more States by consent and adoption of such legislation by any other States.

252. (1) If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in articles 249 and 250 should be regulated in such States by Parliament by law, and if resolutions to that effect are passed by all the Houses of the Legislatures of those States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that State.

(2) Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State.

Legislation for giving effect to international agreements.

253. Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.

Inconsistency between laws made by Parliament and laws made by the Legislatures of States.

254. (1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of a State specified in Part A or Part B of the First Schedule with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions or an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State :

Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to

the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

Requirements as to recommendations and previous sanctions to be regarded as matters of procedure only.

255. No Act of Parliament or of the Legislature of a State specified in Part A or Part B of the First Schedule, and no provision in any such Act, shall be invalid by reason only that some recommendation or previous sanction required by this Constitution was not given, if assent to that Act was given—

(*a*) where the recommendation required was that of the Governor, either by the Governor or by the President;

(*b*) where the recommendation required was that of the Rajpramukh, either the Rajpramukh or by the President;

(*c*) where the recommendation or previous sanction required was that of the President, by the President.

CHAPTER II.—ADMINISTRATIVE RELATIONS.

General.

Obligation of States and the Union.

256. The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.

Control of the Union over States in certain cases.

257. (1) The executive power of every State shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive power of the Union shall extent to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.

(2) The executive power of the Union shall also extend to the giving of directions to a State as to the construction and maintenance of means of communication declared in the direction to be of national or military importance:

Provided that nothing in this clause shall be taken as restricting the power of Parliament to declare highways or waterways to be national highways or national waterways or the power of the Union with respect to the highways or waterways so declared or the power of the Union to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.

(3) The executive power of the Union shall also extend to the giving of directions to a State as to the measures to be taken for the protection of the railways within the State.

(4) Wherein carrying out any direction given to a State under clause (2) as to the construction or maintenance of any means of communication or under clause (3) as to the measures to be taken for protection of any railway, costs have been incurred in excess of those which would have been incurred in the discharge of the normal duties of the State if such direction had not been given, there shall be paid by the Government of India to the State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of the extra costs so incurred by the State.

Power of the Union to confer powers, etc., on States in certain cases.

258. (1) Notwithstanding anything in this Constitution, the President may, with the consent of the Government of a State, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the Union extends.

(2) A law made by Parliament which applies in any State may, notwithstanding that it relates to a matter with respect to which the Legislature of the State has no power to make laws, confer powers and impose duties, or authorise the conferring of powers and the imposition of duties, upon the State or Officers and authorities thereof.

(3) Where by virtue of this article powers and duties have been conferred or imposed upon a State or officers or authorities thereof, there shall be paid by the Government of India to the State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of any extra costs of administration incurred by the State in connection with the exercise of those powers and duties.

Armed Forces in States in Part B of the First Schedule.

259. (1) Notwithstanding anything in this Constitution, a State specified in Part B of the First Schedule having any Armed forces immediately before the commencement of this Constitution may, until Parliament by law otherwise provides, continue to maintain the said Forces after such commencement subject to such general or special orders as the President may from time to time issue in that behalf.

(2) Any such Armed Forces as are referred to in clause (1) shall form part of the Armed Forces of the Union,

260. The Government of India may, by agreement with the Government of any territory not being part of the territory of India, undertake any executive, legislative or judicial functions vested in the Government of such territory, but every such agreement shall be subject to, and governed by, any law relating to the exercise of foreign jurisdiction for the time being in force.

Jurisdiction of the Union in relation to outside India.

261. (1) Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every State.

Public acts, records and judicial proceedings.

(2) The manner in which and the conditions under which the acts, records and proceedings referred to in clause (1) shall be proved and the effect thereof determined shall be as provided by law made by Parliament.

(3) Final judgments or orders delivered or passed by civil courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law.

Disputes relating to Waters.

262. (1) Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.

Adjudication of disputes relating to waters of Inter-State rivers or river valleys.

(2) Notwithstanding anything in this Constitution Parliament may by law provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as is referred to in clause (1).

Co-ordination between States.

263. If at any time it appears to the President that the public interests would be served by the establishment of a Council charged with the duty of—

Provisions with respect to an Inter-State Council.

(*a*) inquiring into and advising upon disputes which may have arisen between States;

(*b*) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States, have a common interest; or

(*c*) making recommendations upon any such subject and in particular, recommendations for the better co-ordination of policy and action with respect to that subject,

it shall be lawful for the President by order to establish such a Council, and to define the nature of the duties to be performed by it and its organization and procedure.

PART XII

FINANCE, PROPERTY, CONTRACTS AND SUITS.

CHAPTER I.—FINANCE.

General.

Interpretation.

264. In this Part, unless the context otherwise requires,—

(*a*) "Finance Commission" means a Finance Commission constituted under article 280;

(*b*) "State" does not include a State specified in Part C of the First Schedule;

(*c*) references to States specified in Part C of the First Schedule shall include references to any territory specified in Part D of the First Schedule and any other territory comprised within the territory of India but not specified in that Schedule.

Taxes not to be imposed save by authority of law.

265. No tax shall be levied or collected except by authority of law.

Consolidated Funds and public accounts of India and of the States.

266. (1) Subject to the provisions of article 267 and to the provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to States, all revenues received by the Government of India, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled "the Consolidated Fund of India", and all revenues received by the Government of a State, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled "the Consolidated Fund of the State".

(2) All other public moneys received by or on behalf of the Government of India or the Government of a State shall be credited to the public account of India or the public account of the State, as the case may be.

(3) No moneys out of the Consolidated Fund of India or the Consolidated Fund of a State shall be appropriated except in accordance with law and for the purposes and in the manner provided in this Constitution.

Contingency Fund.

267. (1) Parliament may by law establish a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of India" into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the President

to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorization of such expenditure by Parliament by law under article 115 or article 116.

(2) The Legislature of a State may by law establish a Contingency Fund in the nature of an imprest to be entitled "The Contingency Fund of the State of into which shall be paid from time to time such sums as may be determined by such law and the said Fund shall be placed at the disposal of the Governor or Rajpramukh of the State to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorization of such expenditure by the Legislature of the State by law under article 205 or article 206.

Distribution of Revenues between the Union and the States.

Duties levied by the Union but collected and appropriated by the States.

268. (1) Such stamp duties and such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied by the Government of India but shall be collected—

(*a*) in the case where such duties are leviable within any State specified in Part C of the First Schedule by the Government of India, and

(*b*) in other cases, by the States within which such duties are respectively leviable.

(2) The proceeds in any financial year of any such duty leviable within any State shall not form part of the Consolidated Fund of India, but shall be assigned to that State.

Taxes levied and collected by the Union but assigned to the States.

269. (1) The following duties and taxes shall be levied and collected by the Government of India but shall be assigned to the States in the manner provided in clause (2), namely :—

(*a*) duties in respect of succession to property other than agricultural land ;

(*b*) estate duty in respect of property other than agricultural land ;

(*c*) terminal taxes on goods or passengers carried by railway, sea or air ;

(*d*) taxes on railway fares and freights ;

(*e*) taxes other than stamp duties on transactions in stock-exchanges and futures markets ;

(*f*) taxes on the sale or purchase of newspapers and on advertisements published therein.

(2) The net proceeds in any financial year of any such duty or tax, except in so far as those proceeds represent proceeds attributable to States specified in Part C of the

First Schedule, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that duty or tax is leviable in that year, and shall be distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law.

Taxes levied and collected by the Union and distributed between the Union and the States.

270. (1) Taxes on income other than agricultural income shall be levied and collected by the Government of India and distributed between the Union and the States in the manner provided in clause (2).

(2) Such percentage, as may be prescribed, of the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to States specified in Part C of the First Schedule or to taxes payable in respect of Union emoluments, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed.

(3) For the purposes of clause (2), in each financial year such percentage as may be prescribed of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Union emoluments shall be deemed to represent proceeds attributable to State specified in Part C of the First Schedule.

(4) In this article—

(*a*) "taxes on income" does not include a corporation tax;

(*b*) "prescribed" means—

(*i*) until a Finance Commission has been constituted, prescribed by the President by order, and

(*ii*) after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission;

(*c*) "Union emoluments" includes all emoluments and pensions payable out of the Consolidated Fund of India in respect of which income-tax is chargeable.

Surcharge on certain duties and taxes for purposes of the Union.

271. Notwithstanding anything in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in those articles by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India.

Taxes which are levied and collected by the Union and may be distributed between the Union and the States.

272. Union duties of excise other than such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied and collected by the Government of India, but, if Parliament by law so provides, there shall be paid out of the Consolidated Fund of India to the States to which the law imposing the duty extends sums equivalent to the whole or any part of the net proceeds of that duty, and those sums shall be distributed among those States in accordance with such principles of distribution as may be formulated by such law.

Grants in lieu of export duty on jute and jute products.

273. (1) There shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of the States of Assam, Bihar, Orissa and West Bengal, in lieu of assignment of any share of the net proceeds in each year of export duty on jute and jute products to those States, such sums as may be prescribed.

(2) The sums so prescribed shall continue to be charged on the Consolidated Fund of India so long as any export duty on jute or jute products continues to be levied by the Government of India or until the expiration of ten years from the commencement of this Constitution, whichever is earlier.

(3) In this article, the expression "prescribed" has the same meaning as in article 270.

Prior recommendation of President required to Bills affecting taxation in which States are interested.

274. (1) No Bill or amendment which imposes or varies any tax or duty in which States are interested, or which varies the meaning of the expression "agricultural income" as defined for the purposes of the enactments relating to Indian income-tax, or which effects the principles on which under any of the foregoing provisions of this Chapter moneys are or may be distributed to States, or which imposes any such surcharge for the purposes of the Union as is mentioned in the foregoing provisions of this Chapter, shall be introduced or moved in either House of Parliament except on the recommendation of the President.

(2) In this article, the expression "tax or duty in which States are interested" means—

(*a*) a tax or duty the whole or part of the net proceeds whereof are assigned to any State; or

(*b*) a tax or duty by reference to the net proceeds whereof sums are for the time being payable out of the Consolidated Fund of India to any State.

Grants from the Union to certain States.

275. (1) Such sums as Parliament may by law provide shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of such States as Parliament may determine to be in need of assistance, and different sums may be fixed for different States :

Provided that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of a State such capital and recurring sums as may be necessary to enable that State to meet the costs of such schemes of development as may be undertaken by the State with the approval of the Government of India for the purpose of promoting the welfare of the Scheduled Tribes in that State or raising the level of administration of the Scheduled Areas therein to that of the administration of the rest of the areas of that State :

Provided further that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the State of Assam sums, capital and recurring, equivalent to—

(*a*) the average excess of expenditure over the revenues during the two years immediately preceding the commencement of this Constitution in respect of the administration of the tribal areas specified in Part A of the table appended to paragraph 20 of the Sixth Schedule ; and

(*b*) the costs of such schemes of development as may be undertaken by that State with the approval of the Government of India for the purpose of raising the level of administration of the said areas to that of the administration of the rest of the areas of that State.

(2) Until provision is made by Parliament under clause (1), the powers conferred on Parliament under that clause shall be exercisable by the President by order and any order made by the President under this clause shall have effect subject to any provision so made by Parliament :

Provided that after a Finance Commission has been constituted no order shall be made under this clause by the President except after considering the recommendations of the Finance Commission.

Taxes on professions, trades, callings and employments.

276. (1) Notwithstanding anything in article 246, no law of the Legislature of a State relating to taxes for the benefit of the State or of a Municipality, district board, local board or other local authority therein in respect of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income.

(2) The total amount payable in respect of any one person to the State or to any one municipality, district board, local board or other local authority in the State by way of

taxes on professions, trades, callings or employments shall not exceed two hundred and fifty rupees per annum :

Provided that if in the financial year immediately preceding the commencement of this Constitution there was in force in the case of any State or any such municipality, board or authority a tax on professions, trades, callings or employments the rate, or the maximum rate, of which exceeded two hundred and fifty rupees per annum, such tax may continue to be levied until provision to the contrary is made by Parliament by law, and any law so made by Parliament may be made either generally or in relation to any specified States, municipalities, boards or authorities.

(3) The power of the Legislature of a State to make laws as aforesaid with respect to taxes on professions, trades, callings and employments shall not be construde as limiting in any way the power of Parliament to make laws with respect to taxes on income accruing from or arising out of professions, trades, callings and employments.

Savings.

277. Any taxes, duties, cesses or fees which, immediately before the commencement of this Constitution, were being lawfully levied by the Government of any State or by any municipality or other local authority or body for the purposes of the State, municipality, district or other local area may, notwithstanding that those taxes, duties, cesses or fees are mentioned in the Union List, continue to be levied and to be applied to the same purposes until provision to the contrary is made by Parliament by law.

Agreement with States in Part B of the First Schedule with regard to certain financial matters.

278. (1) Notwithstanding anything in this Constitution, the Government of India may, subject to the provisions of clause (2), enter into an agreement with the Government of a State specified in Part B of the First Schedule with respect to—

(*a*) the levy and collection of any tax or duty leviable by the Government of India in such State and for the distribution of the proceeds thereof otherwise than in accordance with the provisions of this Chapter ;

(*b*) the grant of any financial assistance by the Government of India to such State in consequence of the loss of any revenue which that State used to drive from any tax or duty leviable under this Constitution by the Government of India or from any other sources ;

(*c*) the contribution by such State in respect of any payment made by the Government of India under clause (1) of article 291 ;

and, when an agreement is so entered into, the provisions of this Chapter shall in relation to such State have effect subject to the terms of such agreement.

(2) An agreement entered into under clause (1) shall continue in force for a period not exceeding ten years from the commencement of this Constitution:

Provided that the President may at any time after the expiration of five years from such commencement terminate or modify any such agreement if after consideration of the report of the Finance Commission he thinks it necessary to do so.

Calculation of "net proceeds," etc.

279. (1) In the foregoing provisions of this Chapter, "net proceeds" means in relation to any tax or duty the proceeds thereof reduced by the cost of collection, and for the purposes of those provisions the net proceeds of any tax or duty, or of any part of any tax or duty, in or attributable to any area shall be ascertained and certified by the Comptroller and Auditor-General of India, whose certificate shall be final.

(2) Subject as aforesaid, and to any other express provision of this Chapter, a law made by Parliament or an order of the President may, in any case where under this Part the proceeds of any duty or tax are, or may be, assigned to any State, provide for the manner in which the proceeds are to be calculated, for the time from or at which and the manner in which any payments are to be made, for the making of adjustments between one financial year and another, and for any other incidental or ancillary matters.

Finance Commission.

280. (1) The President shall, within two years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such earlier time as the President considers necessary, by order constitute a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President.

(2) Parliament may by law determine the qualifications which shall be requisite for appointment as members of the Commission and the manner in which they shall be selected.

(3) It shall be the duty of the Commission to make recommendations to the President as to—

(*a*) the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them under this Chapter and the allocation between the States of the respective shares of such proceeds;

(*b*) the principles which should govern the grants-in-aid of the revenue of the States out of the Consolidated Fund of India;

(*c*) the continuance or modification of the terms of any agreement entered into by the Government of India with the Government of any State specified in Part B of the First Schedule under clause (1) of article 278 or under article 306; and

(*d*) any other matter referred to the Commission by the President in the interests of sound finance.

(4) The Commission shall determine their procedure and shall have such powers in the performance of their functions as Parliament may by law confer on them.

Recommendations of the Finance Commission.

281. The President shall cause every recommendation made by the Finance Commission under the provisions of this Constitution together with an explanatory memorandum as to the action taken thereon to be laid before each House of Parliament.

Miscellaneous Financial Provisions.

Expenditure defrayable by the Union or a State out of its revenues.

282. The Union or a State may make any grants for any public purpose, notwithstanding that the purpose is not one with respect to which Parliament or the Legislature of the State as the case may be, may make laws.

Custody, etc., of Consolidated Funds, Contingency Funds and moneys credited to the public accounts.

283. (1) The custody of the Consolidated Fund of India and the Contingency Fund of India, the payment of moneys into such Funds, the withdrawal of moneys therefrom; the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of India, their payment into the public account of India and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid shall be regulated by law made by Parliament, and, until provision in that behalf is so made, shall be regulated by rules made by the President.

(2) The custody of the Consolidated Fund of a State and the Contingency Fund of a State, the payment of moneys into such Funds, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of the State, their payment into the public account of the State and the withdrawal of moneys from such account and all other

matters connected with or ancillary to matters aforesaid shall be regulated by law made by the Legislature of the State and until provision in that behalf is so made, shall be regulated by rules made by the Governor or Rajpramukh of the State.

Custody of suitors' deposits and other moneys received by public servants and courts.

284. All moneys received by or deposited with—

(*a*) any officer employed in connection with the affairs of the Union or of a State in his capacity as such, other than revenues or public moneys raised or received by the Government of India or the Government of the State, as the case may be, or

(*b*) any court within the territory of India to the credit of any cause, matter, account or persons,

shall be paid into the public account of India or the public account of the State, as the case may be.

Exemption of property of the Union from State taxation.

285. (1) The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempt from all taxes imposed by a State or by any authority within a State.

(2) Nothing in clause (1) shall, until Parliament by law otherwise provides, prevent any authority within a State from levying any tax on any property of the Union to which such property was immediately before the commencement of this Constitution liable or treated as liable, so long as that tax continues to be levied in that State.

Restrictions as to imposition of tax on the sale or purchase of goods.

286. (1) No law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place—

(*a*) outside the State; or

(*b*) in the course of the import of the goods into, or export of the goods out of, the territory of India.

Explanation.—For the purposes of sub-clause (*a*), a sale or purchase shall be deemed to have taken place in the State in which the goods have actually been delivered as a direct result of such sale or purchase for the purpose of consumption in that State, notwithstanding the fact that under the general law relating to sale of goods the property in the goods has by reason of such sale or purchase passed in another State.

(2) Except in so far as Parliament may by law otherwise provide, no law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of any goods where such sale or purchase takes place in the course of inter-State trade or commerce:

Provided that the President may by order direct that any tax on the sale or purchase of goods which was being lawfully levied by the Government of any State immediately before the commencement of this Constitution shall notwithstanding that the imposition of such tax is contrary to the provisions of this clause, continue to be levied until the thirty-first day of March 1951.

(3) No law made by the Legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any such goods as have been declared by Parliament by law to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent.

Exemption from taxes on electricity.

287. Save in so far as Parliament may by law otherwise provide, no law of a State shall impose, or authorise the imposition of, a tax on the consumption or sale of electricity (whether produced by a Government or other persons) which is—

(*a*) consumed by the Government of India, or sold to the Government of India for consumption by that Government; or

(*b*) consumed in the construction, maintenance or operation of any railway by the Government of India or a railway company operating that railway, or sold to that Government or any such railway company for consumption in the construction, maintenance or operation of any railway,

and any such law imposing, or authorising the imposition of a tax on the sale of electricity shall secure that the price of electricity sold to the Government of India for consumption by that Government, or to any such railway company as aforesaid for consumption in the construction, maintenance or operation of any railway, shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity.

Exemption from taxation by States in respect of water or electricity in certain cases.

288. (1) Save in so far as the President may by order otherwise provide, no law of a State in force immediately before the commencement of this Constitution shall impose, or authorise the imposition of, a tax in respect of any water or electricity stored, generated, consumed, distributed or sold by any authority established by any existing law or any law made by Parliament for regulating or developing any inter-State river or river-valley.

Explanation.—The expression "law of a State in force" in this clause shall include a law of a State passed or made before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

(2) The Legislature of a State may by law impose, or authorise the imposition of, any such tax as is mentioned in clause (1), but no such law shall have any effect unless it has, after having been reserved for the consideration of the President, received his assent; and if any such law provides for the fixation of the rates and other incidents of such tax by means of rules or orders to be made under the law by any authority, the law shall provide for the previous consent of the President being obtained to the making of any such rule or order.

Exemption of property and income of a State from Union taxation.

289. (1) The property and income of a State shall be exempt from Union taxation.

(2) Nothing in clause (1) shall prevent the Union from imposing, or authorising the imposition of, any tax to such extent, if any, as Parliament may by law provide in respect of a trade or business of any kind carried on by, or on behalf of, the Government of a State, or any operations connected therewith, or any property used or occupied for the purposes of such trade or business or any income accruing or arising in connection therewith.

(3) Nothing in clause (2) shall apply to any trade or business, or to any class of trade or business, which Parliament may by law declare to be incidental to the ordinary functions of Government.

Adjustment in respect of certain expenses and pensions.

290. Where under the provisions of this Constitution the expenses of any court or Commission, or the pension payable to or in respect of a person who has served before the commencement of this Constitution under the Crown in India or after such commencement in connection with the affairs of the Union or of a State, are charged on the Consolidated Fund of India or the Consolidated Fund of a State, then, if—

(*a*) in the case of a charge on the Consolidated Fund of India, the court or Commission serves any of the separate needs of a State, or the person has served wholly or in part in connection with the affairs of a State;

(*b*) in the case of a charge on the Consolidated Fund of a State, the court or Commission serves any of the separate needs of the Union or another State, or the person has served wholly or in part in connection with the affairs of the Union or another State,

there shall be charged on and paid out the Consolidated Fund of the State or, as the case may be, the Consolidated Fund of India or the Consolidated Fund of the other State, such contribution in respect of the expenses or pension as may be agreed, or as may in default of agreement be determined by an arbitrator to be appointed by the Chief Justice of India.

Privy purse sums of rulers.

291. (1) Where under any covenant or agreement entered into by the Ruler of any Indian State before the commencement of this Constitution, the payment of any sums, free of tax, has been guaranteed or assured by the Government of the Dominion of India to any Ruler of such State as privy purse—

(*a*) such sums shall be charged on, and paid out of the Consolidated Fund of India; and

(*b*) the sums so paid to any Ruler shall be exempt from all taxes on income.

(2) Where the territories of any such Indian State as aforesaid are comprised within a State specified in Part A or Part B of the First Schedule, there shall be charged on, and paid out of the Consolidated Fund of that State such contribution, if any, in respect of the payments made by the Government of India under clause (1) and for such period as may, subject to any agreement entered into in that behalf under clause (1) of article 278, be determined by order of the President.

CHAPTER II.—BORROWING.

Borrowing by the Government of India.

292. The executive power of the Union extends to borrowing upon the security of the Consolidated Fund of India within such limits, if any, as may from time to time be fixed by Parliament by law and to the giving of guarantees within such limits, if any, as may be so fixed.

Borrowing by States.

293. (1) Subject to the provisions of this article, the executive power of a State extends to borrowing within the territory of India upon the security of the Consolidated Fund of the State within such limits, if any, as may from time to time be fixed by the Legislature of such State by law and to the giving of guarantees within such limits, if any, as may be so fixed.

(2) The Government of India may, subject to such conditions as may be laid down by or under any law made by Parliament, make loans to any State or, so long as any limits fixed under article 292 are not exceeded, give guarantees in respect of loans raised by any State, and any sums required for the purpose of making such loans shall be charged on the Consolidated Fund of India.

(3) A State may not without the consent of the Government of India raise any loan if there is still outstanding any part of a loan which has been made to the State by the Government of India or by its predecessor Government, or in respect of which a guarantee has been given by the Government of India or by its predecessor Government.

(4) A consent under clause (3) may be granted subject to such conditions, if any, as the Government of India may think fit to impose.

CHAPTER III.—PROPERTY, CONTRACTS, RIGHTS, LIABILITIES, OBLIGATIONS AND SUITS.

Succession to property, assets, rights, liabilities and obligations in certain cases.

294. As the commencement of this Constitution—

(*a*) all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of the Dominion of India and all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of each Governor's Province shall vest respectively in the Union and the corresponding State, and

(*b*) all rights, liabilities and obligations of the Government of the Dominion of India and of the Government of each Governor's Province, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the Government of India and the Government of each corresponding State,

subject to any adjustment made or to be made by reason of the creation before the commencement of this Constitution of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East Punjab.

Succession to property, assets, rights, liabilities and obligations in other cases.

295. (1) As from the commencement of this Constitution—

(*a*) all property and assets which immediately before such commencement were vested in any Indian State corresponding to a State specified in Part B of the First Schedule shall vest in the Union, if the purposes for which such property and assets were held immediately before such

commencement will thereafter be purposes of the Union relating to any of the matters enumerated in the Union List, and

(*b*) all rights, liabilities and obligations of the Government of any Indian State corresponding to a State specified in Part B of the First Schedule, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations of the Government of India, if the purposes for which such rights were acquired or liabilities or obligations were incurred before such commencement will thereafter be purposes of the Government of India relating to any of the matters enumerated in the Union List,

subject to any agreement entered into in that behalf by the Government of India with the Government of that State.

(2) Subject as aforesaid, the Government of each State specified in Part B of the First Schedule shall, as from the commencement of this Constitution, be the successor of the Government of the corresponding Indian State as regards all property and assets and all rights, liabilities and obligations, whether arising out of any contract or otherwise, other than those referred to in clause (1).

Property accruing by escheat or lapse or as *bona vacantia*.

296. Subject as hereinafter provided, any property in the territory of India which, if this Constitution had not come into operation, would have accrued to His Majesty or, as the case may be, to the Ruler of an Indian State by escheat or lapse, or as *bona vacantia* for want of a rightful owner, shall, if it is property situate in a State, vest in such State, and shall, in any other case, vest in the Union :

Provided that any property which at the date when it would have so accrued to His Majesty or to the Ruler of an Indian State was in the possession or under the control of the Government of India or the Government of a State shall according as the purposes for which it was then used or held were purposes of the Union or of a State, vest in the Union or in that State.

Explanation.—In this article, the expressions "Ruler" and "Indian State" have the same meanings as in article 363.

Things of value lying within territorial waters to vest in the Union.

297. All lands, minerals and other things of value underlying the ocean within the territorial waters of India shall vest in the Union and be held for the purposes of the Union.

Power to acquire property.

298. (1) The executive power of the Union and of each State shall extend, subject to any law made by the appropriate Legislature, to the grant, sale, disposition or mortgage of any property held for the purposes of the Union or of such State, as the case may be, and to the purchase or acquisition of property for those purposes respectively, and to the making of contracts.

(2) All property acquired for the purposes of the Union or of a State shall vest in the Union or in such State, as the case may be.

Contracts.

299. (1) All contracts made in the exercise of the executive power of the Union or of a State shall be expressed to be made by the President, or by the Governor or the Rajpramukh of the State, as the case may be, and all such contracts and all assurances of property made in the exercise of that power shall be executed on behalf of the President or the Governor or the Rajpramukh by such persons and in such manner as he may direct or authorise.

(2) Neither the President nor the Governor nor the Rajpramukh shall be personally liable in respect of any contract or assurance made or executed for the purposes of this Constitution, or for the purposes of any enactment relating to the Government of India heretofore in force, nor shall any person making or executing any such contract or assurance on behalf of any of them be personally liable in respect thereof.

Suits and proceedings.

300. (1) The Government of India may sue or be sued by the name of the Union of India and the Government of a State may sue or be sued by the name of the State and may, subject to any provisions which may be made by Act of Parliament or of the Legislature of such State enacted by virtue of powers conferred by this Constitution, sue or be sued in relation to their respective affairs in the like cases as the Dominion of India and the corresponding Provinces or the corresponding Indian States might have sued or been sued if this Constitution had not been enacted.

(2) If at the commencement of this Constitution—

(*a*) any legal proceedings are pending to which the Dominion of India is a party, the Union of India shall be deemed to be substituted for the Dominion in those proceedings; and

(*b*) any legal proceedings are pending to which a Province or an Indian State is a party, the corresponding State shall be deemed to be substituted for the Province or the Indian State in those proceedings.

PART XIII.

TRADE, COMMERCE AND INTERCOURSE WITHIN THE TERRITORY OF INDIA.

301. Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free.

Freedom of trade, commerce and intercourse.

302. Parliament may by law impose such restrictions on the freedom of trade, commerce or intercourse between one State and another or within any part of the territory of India as may be required in the public interest.

Power of Parliament to impose restrictions on trade, commerce and intercourse.

303. (1) Notwithstanding anything in article 302, neither Parliament nor the Legislature of a State shall have power to make any law giving, or authorising the giving of, any preference to one State over another, or making, or authorising the making of, any discrimination between one State and another, by virtue of any entry relating to trade and commerce in any of the Lists in the Seventh Schedule.

(2) Nothing in clause (i) shall prevent Parliament from making any law giving, or authorising the giving of, any preference or making, or authorising the making of, any discrimination if it is declared by such law that it is necessary to do so for the purpose of dealing with a situation arising from scarcity of goods in any part of the territory of India.

Restrictions on the legislative powers of the Union and of the States with regard to trade and commerce.

304. Notwithstanding anything in article 301 or article 303, the Legislature of a State may by law—

(*a*) impose on goods imported from other States any tax to which similar goods manufactured or produced in that State are subject, so, however, as not to discriminate between goods so imported and goods so manufactured or produced; and

(*b*) impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest:

Provided that no Bill or amendment for the purposes of clause (*b*) shall be introduced or moved in the Legislature of a State without the previous sanction of the President.

Restrictions on trade, commerce and intercourse among States.

305. Nothing in articles 301 and 303 shall affect the provisions of any existing law except in so far as the President may by order otherwise provide.

Effect of articles 301 and 303 on existing laws.

Power of certain States in Part B of the First Schedule to impose restrictions on trade and commerce.

306. Notwithstanding anything in the foregoing provisions of this Part or in any other provisions of this Constitution, any State specified in Part B of the First Schedule which before the commencement of this Constitution was levying any tax or duty on the import of goods into the State from other States or on the export of goods from the State to other States may, if an agreement in that behalf has been entered into between the Government of India and the Government of that State, continue to levy and collect such tax or duty subject to the terms of such agreement and for such period not exceeding ten years from the commencement of this Constitution as may be specified in the agreement:

Provided that the President may at any time after the expiration of five years from such commencement terminate or modify any such agreement if after consideration of the report of the Finance Commission constituted under article 280, he thinks it necessary to do so.

Appointment of authority for carrying out the purposes of articles 301 to 304.

307. Parliament may by law appoint such authority as it considers appropriate for carrying out the purposes of articles 301, 302, 303 and 304, and confer on the authority so appointed such powers and such duties as it thinks necessary.

PART XIV.

SERVICES UNDER THE UNION AND THE STATES.

CHAPTER I—SERVICES.

Interpretation.

308. In this Part, unless the context otherwise requires, the expression "State" means a State specified in Part A or Part B of the First Schedule.

Recruitment and conditions of service of persons serving the Union or a State.

309. Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State:

Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor or Rajpramukh of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment, and the conditions of service of persons appointed, to such services and posts until provision in that behalf

is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act.

Tenure of office of persons serving the Union or a State.

310. (1) Except as expressly provided by this constitution, every person who is a member of a defence service or of a civil service of the Union or of an all-India service or holds any post connected with defence or any civil post under the Union holds office during the pleasure of the President, and every person who is a member of a civil service of a State or holds any civil post under a State holds office during the pleasure of the Governor or, as the case may be, the Rajpramukh of the State.

(2) Notwithstanding that a person holding a civil post under the Union or a State holds office during the pleasure of the President, or, as the case may be, of the Governor or Rajpramukh of the State, any contract under which a person, not being a member of a defence service or of an all-India service or of a civil service of the Union or a State, is appointed under this Constitution to hold such a post may, if the President or the Governor or the Rajpramukh, as the case may be, deems it necessary in order to secure the services of a person having special qualifications, provide for the payment to him of compensation, if before the expiration of an agreed period that post is abolished or he is, for reasons not connected with any misconduct on his part, required to vacate that post.

Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State.

311. (1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

(2) No such person as aforesaid shall be dismissed or removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him :

Provided that this clause shall not apply—

(*a*) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge ;

(*b*) where an authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to give to that person an opportunity of showing cause ; or

(c) Where the President or Governor or Rajpramukh, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to give to that person such an opportunity.

(3) If any question arises whether it is reasonably practicable to give to any person an opportunity of showing cause under clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank, as the case may be, shall be final.

All India services.

312. (1) Notwithstanding anything in Part XI, if the Council of States, has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest so to do, Parliament may by law provide for the creation of one or more all-India services common to the Union and the States and, subject to the other provisions of this Chapter, regulate the recruitment, and the conditions of service of persons appointed, to any such service.

(2) The services now at the commencement of this Constitution as the Indian Administrative Service and the Indian Police Service shall be deemed to be services created by Parliament under this article.

Transitional provisions.

313. Until other provision is made in this behalf under this Constitution, all the laws in force immediately before the commencement of this Constitution, and applicable to any public service or any post which continues to exist after the commencement of this Constitution, as an All-India service or as service or post under the Union or a State shall continue in force so far as consistent with the provisions of this Constitution.

Provisions for protection of existing offices of certain services.

314. Except as otherwise expressly provided by this Constitution, every person who having been appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India continues on and after the commencement of this Constitution to serve under the Government of India or of a State shall be entitled to receive from the Government of India and the Government of State, which he is from time to time serving, the same conditions of service as respects remuneration, leave and pension, and the same rights as respects disciplinary matters or rights as similar thereto as changed circumstances may permit as that person was entitled to immediately before such commencement.

CHAPTER II—PUBLIC SERVICE COMMISSIONS.

Public Service Commissions for the Union and for the States.

315. (1) Subject to the provisions of this article, there shall be a Pubilc Service Commission for the Union and a Public Service Commission for each State.

(2) Two or more States may agree that there shall be one Public Service Commission for that group of States, and if a resolution to that effect is passed by the House or, where there are two Houses, by each House of the Legislature of each of those States, Parliament may by law provide for the appointment of a Joint State Public Service Commission (referred to in this Chapter as Joint Commission) to serve the needs of those States.

(3) Any such law as aforesaid may contain such incidental and consequential provisions as may be necessary or desirable for giving effect to the purposes of the law.

(4) The Public Service Commission for the Union, if requested so to do by the Governor or Rajpramukh of a State, may, with the approval of the President, agree to serve all or any of the needs of the State.

(5) References in this Constitution to the Union Public Service Commission or a State Public Service Commission shall, unless the context otherwise requires, be construed as references to the Commission serving the needs of the Union or, as the case may be, the State as respects the particular matter in question.

Appointment and term of office of members.

316. (1) The Chairman and other members of a Public Service Commission shall be appointed, in the case of the Union Commission or a Joint Commission, by the President, and in the case of a State Commission, by the Governor or Rajpramukh of the State:

Provided that as nearly as may be one-half of the members of every Public Service Commission shall be persons who at the dates of their respective appointments have held office for at least ten years either under the Government of India or under the Government of a State, and in computing the said period of ten years any period before the commencement of this Constitution during which a person has held office under the Crown in India or under the Government of an Indian State shall be included.

(2) A member of a Public Service Commission shall hold office for a term of six years from the date on which he enters upon his office or until he attains, in the case of the Union Commission, the age of sixty-five years, and in the case of a State Commission or a Joint Commission, the age of sixty years, whichever is earlier:

Provided that—

(*a*) a member of a Public Service Commission may, by writing under his hand addressed, in the case of the Union Commission or a Joint Commission, to the President, and in the case of a State Commission, to the Governor or Rajpramukh of the State, resign his office;

(*b*) a member of a Public Service Commission may be removed from his office in the manner provided in clause (1) or clause (3) of article 317.

(3) A person who holds office as a member of a Public Service Commission shall, on the expiration of his term of office, be ineligible for re-appointment to that office.

Removal and suspension of a member of a Public Service Commission.

317. (1) Subject to the provisions of clause (3), the Chairman or any other member of a Public Service Commission shall only be removed from his office by order of the President on the ground of misbehaviour after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf under article 145, reported that the Chairman or such other member, as the case may be, ought on any such ground to be removed.

(2) The President, in the case of the Union Commission or a Joint Commission, and the Governor or Rajpramukh, in the case of a State Commission, may suspend from office the Chairman or any other member of the Commission in respect of whom a reference has been made to the Supreme Court under clause (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything in clause (1), the President may by order remove from office the Chairman or any other member of a Public Service Commission if the Chairman or such other member, as the case may be,—

(*a*) is adjudged an insolvent; or

(*b*) engages during his term of office in any paid employment outside the duties of his office; or

(*c*) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body.

(4) If the Chairman or any other member of a Public Service Commission is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of a State or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of clause (1), be deemed to be guilty of misbehaviour.

318. In the case of the Union Commission or a Joint Commission, the President and, in the case of a State Commission, the Governor or Rajpramukh of the State may by regulations—

Power to make regulations as to conditions of service of members and staff of the Commission.

(*a*) determine the number of members of the Commission and their conditions of service; and

(*b*) make provision with respect to the number of members of the staff of the Commission and their conditions of service:

Provided that the conditions of service of a member of a Public Service Commission shall not be varied to his disadvantage after his appointment.

319. On ceasing to hold office—

Prohibition as to the holding of offices by members of Commission on ceasing to be such members.

(*a*) the Chairman of the Union Public Service Commission shall be ineligible for further employment either under the Government of India or under the Government of a State;

(*b*) the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State;

(*c*) a member other than the Chairman of the Union Public Service Commission shall be eligible for appointment as the Chairman of the Union Public Service Commission or as the Chairman of a State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State;

(*d*) a member other than the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of that or any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State.

Functions of Public Service Commissions.

320. (1) It shall be the duty of the Union and the State Public Service Commissions to conduct examinations for appointments to the services of the Union and the services of the State respectively.

(2) It shall also be the duty of the Union Public Service Commission, if requested by any two or more States so to do, to assist those States in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required,

(3) The Union Public Service Commission or the State Public Service Commission, as the case may be, shall be consulted—

(*a*) on all matters relating to methods of recruitment to civil services and for civil posts;

(*b*) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers;

(*c*) on all disciplinary matters affecting a person serving under the Government of India or the Government of a State in a civil capacity, including memorials or petitions relating to such matters;

(*d*) on any claim by or in respect of a person who is serving or has served under the Government of India or the Government of a State or under the Crown in India or under the Government of an Indian State, in a civil capacity, that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the Consolidated Fund of India, or, as the case may be, out of the Consolidated Fund of the State:

(*e*) on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India or the Government of a State or under the Crown in India or under the Government of an Indian State, in a civil capacity, and any question as to the amount of any such award,

and it shall be the duty of a Public Service Commission to advise on any matter so referred to them and on any other matter which the President, or, as the case may be, the Governor or Rajpramukh of the State, may refer to them:

Provided that the President as respects the all-India services and also as respects other services and posts in connection with the affairs of the Union, and the Governor or Rajpramukh, as the case may be, as respects other services and posts in connection with the affairs of a State, may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted.

(4) Nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which any provision referred to in clause (4) of article 16 may be made or as respects the manner in which effect may be given to the provisions of article 335.

(5) All regulations made under the proviso to clause (3) by the President or the Governor or Rajpramukh of a State shall be laid for not less than fourteen days before each House of Parliament or the House or each House of the Legislature of the State, as the case may be, as soon as possible after they are made, and shall be subject to such modifications, whether by way of repeal or amendment, as both Houses of Parliament or the House or both Houses of the Legislature of the State may make during the session in which they are so laid.

Power to extend functions of Public Service Commissions.

321. An Act made by Parliament or, as the case may be, the Legislature of a State may provide for the exercise of additional functions by the Union Public Service Commission or the State Public Service Commission as respects the services of the Union or the State and also as respects the services of any local authority or other body corporate constituted by law or of any public institution.

Expenses of Public Service Commissions.

322. The expenses of the Union or a State Public Service Commission, including any salaries, allowances and pensions payable to or in respect of the members or staff of the Commission, shall be charged on the Consolidated Fund of India or, as the case may be, the Consolidated Fund of the State.

Reports of Public Service Commissions.

323. (1) It shall be the duty of the Union Commission to present annually to the President a report as to the work done by the Commission and on receipt of such report the President shall cause a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before each House of Parliament.

(2) It shall be the duty of a State Commission to present annually to the Governor or Rajpramukh of the State a report as to the work done by the Commission, and it shall be the duty of a Joint Commission to present annually to the Governor or Rajpramukh of each of the States the needs of which are served by the Joint Commission a report as to the work done by the Commission in relation to that State, and in either case the Governor or Rajpramukh, as the case may be, shall, on receipt of such report, cause a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before the Legislature of the State.

PART XV.

ELECTIONS.

Superintendence, direction and control of elections to be vested in an Election Commission.

324. (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution, including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States shall be vested in a Commission (referred to in this Constitution as the Election Commission).

(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.

(3) When any other Election Commissioner is so appointed the Chief Election Commissioner shall act as the Chairman of the Election Commission.

(4) Before each general election to the House of the People and to the Legislative Assembly of each State, and before the first general election and thereafter before each biennial election to the Legislative Council of each State having such Council, the President may also appoint after consultation with the Election Commission such Regional Commissioners as he may consider necessary to assist the Election Commission in the performance of the functions conferred on the Commission by clause (1).

(5) Subject to the provisions of any law made by Parliament, the conditions of service and tenure of office of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine:

Provided that the Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment:

Provided further that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.

(6) The President, or the Governor or Rajpramukh of a State, shall, when so requested by the Election Commission make available to the Election Commission or to a

Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1).

No person to be ineligible for inclusion in, or to claim to be included in a special electoral roll on grounds of religion, race, caste or sex.

325. There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them.

Elections to the House of the People and to the Legislative Assemblies to States to be on the basis of adult suffrage.

326. The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say, every person who is a citizen of India and who is not less than twenty-one years of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election.

Power of Parliament to make provision with respect to elections to Legislatures.

327. Subject to the provisions of this Constitution, Parliament may from time to time by law make provision with respect to all matters relating to, or in connection with, elections to either House of Parliament or to the House or either House of the Legislature of a State including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing the due constitution of such House or Houses.

Power of Legislature of a State to make provision with respect to elections to such Legislature.

238. Subject to the provisions of this Constitution and in so far as provision in that behalf is not made by Parliament, the Legislature of a State may from time to time by law make provision with respect to all matters relating to, or in connection with, the elections to the House or either House of the Legislature of the State including the preparation of electoral rolls and all other matters necessary for securing the due constitution of such House or Houses.

Bar to interference by courts in electoral matters.

329. Notwithstanding anything in this Constitution—

(*a*) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 327 or article 328, shall not be called in question in any court;

(*b*) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature.

PART XVI.

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES.

Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People.

330. (1) Seats shall be reserved in the House of the People for—

(*a*) the Scheduled Castes;

(*b*) the Scheduled Tribes except the Scheduled Tribes in the tribal areas of Assam; and

(*c*) the Scheduled Tribes in the autonomous districts of Assam.

(2) The number of seats reserved in any State for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State in the House of the People as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.

Representation of the Anglo-Indian community in the House of the People.

331. Notwithstanding anything in article 81, the President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the People, nominate not more than two members of that community to the House of the People.

Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.

332. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, except the Scheduled Tribes in the tribal areas of Assam, in the Legislative Assembly of every State specified in Part A or Part B of the First Schedule.

(2) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.

(3) The number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative Assembly of any State under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the

State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.

(4) The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State.

(5) The constituencies for the seats reserved for any autonomous district of Assam shall not comprise any area outside that district except in the case of the constituency comprising the cantonment and municipality of Shillong.

(6) No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district except from the constituency comprising the cantonment and municipality of Shillong.

Representation of the Anglo-Indian community in the Legislative Assemblies of the States.

333. Notwithstanding anything in article 170, the Governor or Rajpramukh of a State may, if he is of opinion that the Anglo-Indian community needs representation in the Legislative Assembly of the State and is not adequately represented therein, nominate such number of members of the community to the Assembly as he considers appropriate.

Reservation of seats and special representation to cease after ten years.

334. Notwithstanding anything in the foregoing provisions of this Part, the provisions of this Constitution relating to—

(*a*) the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and in the Legislative Assemblies of the States; and

(*b*) the representation of the Anglo-Indian community in the House of the People and in the Legislative Assemblies of the States by nomination,

shall cease to have effect on the expiration of a period of ten years from the commencement of this Constitution:

Provided that nothing in this article shall affect any representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the then existing House or Assembly, as the case may be.

Claims of Scheduled Castes and Scheduled Tribes to services and posts.

335. The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State.

Part XVI.—Special Provisions relating to certain Classes.—Arts. 336-338.

Special provision for Anglo-Indian community in certain services.

336. (1) During the first two years after the commencement of this Constitution, appointments of members of the Anglo-Indian community to posts in the railway, customs, postal and telegraph services of the Union shall be made on the same basis as immediately before the fifteenth day of August 1947.

During every succeeding period of two years, the number of posts reserved for the members of the said community in the said services shall, as nearly as possible, be less by ten per cent than the number so reserved during the immediately preceding period of two years:

Provided that at the end of ten years from the commencement of this Constitution all such reservations shall cease.

(2) Nothing in clause (1) shall bar the appointment of members of the Anglo-Indian community to posts other than, or in addition to, those reserved for the community under that clause if such members are found qualified for appointment on merit as compared with the members of other communities.

Special provision with respect to educational grants for the benefit of Anglo-Indian community.

337. During the first three financial years after the commencement of this Constitution, the same grants, if any, shall be made by the Union and by each State specified in Part A or Part B of the First Schedule for the benefit of the Anglo-Indian community in respect of education as were made in the financial year ending on the thirty-first day of March, 1948.

During every succeeding period of three years the grants may be less by ten per cent than those for the immediately preceding period of three years:

Provided that at the end of ten years from the commencement of this Constitution such grants, to the extent to which they are a special concession to the Anglo-Indian community, shall cease:

Provided further that no educational institution shall be entitled to receive any grant under this article unless at least forty per cent of the annual admissions therein are made available to members of communities other than the Anglo-Indian community.

Special Officer for scheduled castes Scheduled Tribes, etc.

338. (1) There shall be a Special Officer for the Scheduled Castes and Scheduled Tribes to be appointed by the President.

(2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this Constitution and report to the President upon the working of those

safeguards at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament.

(3) In this article, references to the Scheduled Castes and Scheduled Tribes shall be construed as including references to such other backward classes as the President may, on receipt of the report of a Commission appointed under clause (1) of article 340, by order specify and also to the Anglo-Indian community.

Control of the Union over the administration of Scheduled Areas and the welfare of Scheduled Tribes.

339. (1) The President may at any time and shall, at the expiration of ten years from the commencement of this Constitution by order appoint a Commission to report on the administration of the Scheduled Areas and the welfare of the Scheduled Tribes in the States specified in Part A and Part B of the First Schedule.

The order may define the composition, powers and procedure of the Commission and may contain such incidental or ancillary provisions as the President may consider necessary or desirable.

(2) The executive power of the Union shall extend to the giving of directions to any such State as to the drawing up and execution of schemes specified in the direction to be essential for the welfare of the Scheduled Tribes in the State.

Appointment of a Commission to investigate the conditions of backward classes.

340. (1) The President may by order appoint a Commission consisting of such persons as he thinks fit to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties and to improve their condition and as to the grants that should be made for the purpose by the Union or any State and the conditions subject to which such grants should be made, and the order appointing such Commission shall define the procedure to be followed by the Commission.

(2) A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the facts as found by them and making such recommendations as they think proper.

(3) The President shall cause a copy of the report so presented together with a memorandum explaining the action taken thereon to be laid before each House of Parliament.

Scheduled Castes.

341. (1) The President may, after consultation with the Governor or Rajpramukh of a State, by public notification, specify the castes, races or tribes or parts of or groups within

castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State.

(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

Scheduled Tribes.

342. (1) The President may, after consultation with the Governor or Rajpramukh of a State, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State.

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

PART XVII.

OFFICIAL LANGUAGE.

CHAPTER I.—LANGUAGE OF THE UNION.

Official language of the Union.

343. (1) The official language of the Union shall be Hindi in Devanagari script.

The form of numerals to be used for the official purposes of the Union shall be the international form of Indian numerals.

(2) Notwithstanding anything in clause (1), for a period of fifteen years from the commencement of this Constitution, the English language shall continue to be used for all the official purposes of the Union for which it was being used immediately before such commencement:

Provided that the President may, during the said period, by order authorise the use of the Hindi language in addition to the English language and of the Devanagari form of numerals in addition to the international form of Indian numerals for any of the official purposes of the Union.

(3) Notwithstanding anything in this article, Parliament may by law provide for the use, after the said period of fifteen years, of—

(*a*) the English language, or

(*b*) the Devanagari form of numerals,

for such purposes as may be specified in the law.

Commission and Committee of Parliament on official language.

344. (1) The President shall, at the expiration of five years from the commencement of this Constitution and thereafter at the expiration of ten years from such commencement, by order constitute a Commission which shall consist of a Chairman and such other members representing the different languages specified in the Eighth Schedule as the President may appoint, and the order shall define the procedure to be followed by the Commission.

(2) It shall be the duty of the Commission to make recommendations to the President as to—

(*a*) the progressive use of the Hindi language for the official purposes of the Union;

(*b*) restrictions on the use of the English language for all or any of the official purposes of the Union;

(*c*) the language to be used for all or any of the purposes mentioned in article 348;

(*d*) the form of numerals to be used for any one or more specified purposes of the Union;

(*e*) any other matter referred to the Commission by the President as regards the official language of the Union and the language for communication between the Union and a State or between one State and another and their use.

(3) In making their recommendations under clause (2), the Commission shall have due regard to the industrial, cultural and scientific advancement of India, and the just claims and the interests of persons belonging to the non-Hindi speaking areas in regard to the public services.

(4) There shall be constituted a Committee consisting of thirty members, of whom twenty shall be members of the House of the People and ten shall be members of the Council of States to be elected respectively by the members of the House of the People and the members of the Council of States in accordance with the system of proportional representation by means of the single transferable vote.

(5) It shall be the duty of the Committee to examine the recommendations of the Commission constituted under clause (1) and to report to the President their opinion thereon.

(6) Notwithstanding anything in article 343, the President may, after consideration of the report referred to in clause (5), issue directions in accordance with the whole or any part of that report.

CHAPTER II.—REGIONAL LANGUAGES.

Official language or languages of a State.

345. Subject to the provisions of articles 346 and 347, the Legislature of a State may by law adopt any one or more of the languages in use in the State or Hindi as the language or languages to be used for all or any of the official purposes of that State:

Provided that, until the Legislature of the State otherwise provides by law, the English language shall continue to be used for those official purposes within the State for which it was being used immediately before the commencement of this Constitution.

Official language for communication between one State and another or between a State and the Union.

346. The language for the time being authorized for use in the Union for official purposes shall be the official language for communication between one State and another State and between a State and the Union:

Provided that if two or more States agree that the Hindi language should be the official language for communication between such States, that language may be used for such communication.

Special provision relating to language spoken by a section of the population of a State.

347. On a demand being made in that behalf, the President may, if he is satisfied that a substantial proportion of the population of a State desire the use of any language spoken by them to be recognised by that State, direct that such language shall also be officially recognised throughout that State or any part thereof for such purpose as he may specify.

CHAPTER III.—LANGUAGE OF THE SUPREME COURT, HIGH COURTS, ETC.

Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.

348. (1) Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provides—

(*a*) all proceedings in the Supreme Court and in every High Court,

(*b*) the authoritative texts—

(*i*) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State,

(*ii*) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor or Rajpramukh of a State, and

(*iii*) of all orders, rules, regulations and bye-laws issued under this Constitution or under any law made by Parliament or the Legislature of a State,

shall be in the English language.

(2) Notwithstanding anything in sub-clause (*a*) of clause (1), the Governor or Rajpramukh of a State may, with the previous consent of the President, authorise the use of the Hindi language, or any other language used for any official purpose of the State, in proceedings in the High Court having its principal seat in that State:

Provided that nothing in this clause shall apply to any judgment, decree or order passed or made by such High Court.

(3) Notwithstanding anything in sub-clause (*b*) of clause (1), where the Legislature of a State has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislature of the State or in Ordinances promulgated by the Governor or Rajpramukh of the State or in any order, rule, regulation or bye-law referred to in paragraph (iii) of that sub-clause, a translation of the same in the English language published under the authority of the Governor or Rajpramukh of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the English language under this article.

Special procedure for enactment of certain laws relating to language.

349. During the period of fifteen years from the commencement of this Constitution, no Bill or amendment making provision for the language to be used for any of the purposes mentioned in clause (1) of article 348 shall be introduced or moved in either House of Parliament without the previous sanction of the President, and the President shall not give his sanction to the introduction of any such Bill or the moving of any such amendment except after he has taken into consideration the recommendations of the Commission constituted under clause (1) of article 344 and the report of the Committee constituted under clause (4) of that article.

CHAPTER IV.—SPECIAL DIRECTIVES.

Language to be used in representations for redress of grievances.

350. Every person shall be entitled to submit a representation for the redress of any grievance to any officer or authority of the Union or a State in any of the languages used in the Union or in the State, as the case may be.

Directive for development of the Hindi Language.

351. It shall be the duty of the Union to promote the spread of the Hindi language, to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India and to secure its enrichment by assimilating without interfering with its genius, the forms, style and expressions used in Hindustani and in the other languages of India specified in the Eighth Schedule, and by drawing, wherever necessary or desirable, for its vocabulary, primarily on Sanskrit and secondarily on other languages.

PART XVIII.

EMERGENCY PROVISIONS.

Proclamation of Emergency.

352. (1) If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance, he may, by Proclamation, make a declaration to that effect.

(2) A Proclamation issued under clause (1)—

(*a*) may be revoked by a subsequent Proclamation;

(*b*) shall be laid before each House of Parliament;

(*c*) shall cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:

Provided that if any such Proclamation is issued at a time when the House of the People has been dissolved or the dissolution of the House of the People takes place during the period of two months referred to in sub-clause (*c*), and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.

(3) A Proclamation of Emergency declaring that the security of India or of any part of the territory thereof is threatened by war or by external aggression or by internal disturbance may be made before the actual occurrence of war or of any such aggression or disturbance if the President is satisfied that there is imminent danger thereof.

Effect of Proclamation of Emergency.

353. While a Proclamation of Emergency is in operation, then—

(*a*) notwithstanding anything in this Constitution, the executive power of the Union shall extend to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised;

(*b*) the power of Parliament to make laws with respect to any matter shall include power to make laws conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Union or officers and authorities of the Union as respects that matter, notwithstanding that it is one which is not enumerated in the Union List.

Application of provisions relating to distribution of revenues while a Proclamation of Emergency is in operation.

354. (1) The President may, while a Proclamation of Emergency is in operation, by order direct that all or any of the provisions of articles 268 to 279 shall, for such period, not extending in any case beyond the expiration of the financial year in which such Proclamation ceases to operate, as may be specified in the order, have effect subject to such exceptions or modifications as he thinks fit.

(2) Every order made under clause (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

Duty of the Union to protect States against external aggression and internal disturbance.

355. It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the government of every State is carried on in accordance with the provisions of this Constitution.

Provisions in case of failure of constitutional machinery in States.

356. (1) If the President, on receipt of a report from the Governor or Rajpramukh of a State or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may by Proclamation—

(*a*) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or Rajpramukh, as the case may be, or any body or authority in the State other than the Legislature of the State;

(*b*) declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament;

(*c*) make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in the State:

Provided that nothing in this clause shall authorise the President to assume to himself any of the powers vested in or exercisable by a High Court, or to suspend in whole or in part the operation of any provision of this Constitution relating to High Courts.

(2) Any such Proclamation may be revoked or varied by a subsequent Proclamation.

(3) Every Proclamation under this article shall be laid before each House of Parliament and shall except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament :

Provided that if any such Proclamation (not being a Proclamation revoking a previous Proclamation) is issued at a time when the House of the People is dissolved or the dissolution of the House of the People takes place during the period of two months referred to in this clause, and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.

(4) A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of six months from the date of the passing of the second of the resolutions approving the Proclamation under clause (3) :

Provided that if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament, the Proclamation shall, unless revoked, continue in force for a further period of six months from the date on which under this clause it would otherwise have ceased to operate, but no such Proclamation shall in any case remain in force for more than three years :

Provided further that if the dissolution of the House of the People takes place during any such period of six months and a resolution approving the continuance in force of such Proclamation has been passed by the Council of States, but no resolution with respect to the continuance in force of such Proclamation has been passed by the House of the People during the said period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the continuance in force of the Proclamation has been also passed by the House of the People.

Exercise of legislative powers under Proclamation issued under article 356

357. (1) Where by a Proclamation issued under clause (1) of article 356, it has been declared that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament, it shall be competent—

(*a*) for Parliament to confer on the President the power of the Legislature of the State to make laws, and to authorise the President to delegate, subject to such conditions as he may think fit to impose, the power so conferred to any other authority to be specified by him in that behalf;

(*b*) for Parliament, or for the President or other authority in whom such power to make laws is vested under sub-clause (*a*), to make laws conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Union or officers and authorities thereof;

(*c*) for the President to authorise when the House of the People is not in session expenditure from the Consolidated Fund of the State pending the sanction of such expenditure by Parliament.

(2) Any law made in exercise of the power of the Legislature of the State by Parliament or the President or other authority referred to in sub-clause (*a*) of clause (1) which Parliament or the President or such other authority would not, but for the issue of a Proclamation under article 356, have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of one year after the Proclamation has ceased to operate except as respects things done or omitted to be done before the expiration of the said period, unless the provisions which shall so cease to have effect are sooner repealed or re-enacted with or without modification by Act of the appropriate Legislature.

Suspension of provisions of article 19 during emergencies.

358. While a Proclamation of Emergency is in operation, nothing in article 19 shall restrict the power of the State as defined in Part III to make any law or to take any executive action which the State would but for the provisions contained in that Part be competent to make or to take, but any law so made shall, to the extent of the incompetency, cease to have effect as soon as the Proclamation ceases to operate, except as respects things done or omitted to be done before the law so ceases to have effect.

Suspension of the enforcement of the rights conferred by Part III during emergencies.

359. (1) Where a Proclamation of Emergency is in operation, the President may by order declare that the right to move any court for the enforcement of such of the rights conferred by Part III as may be mentioned in the order and all proceedings pending in any court for the enforcement of the rights so mentioned shall remain suspended for the period during which the Proclamation is in force or for such shorter period as may be specified in the order.

(2) An order made as aforesaid may extend to the whole or any part of the territory of India.

(3) Every order made under clause (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

Provisions as to financial emergency.

360. (1) If the President is satisfied that a situation has arisen whereby the financial stability or credit of India or of any part of the territory thereof is threatened, he may by a Proclamation make a declaration to that effect.

(2) The provisions of clause (2) of article 352 shall apply in relation to a Proclamation issued under this article as they apply in relation to a Proclamation of Emergency issued under article 352.

(3) During the period any such Proclamation as is mentioned in clause (1) is in operation, the executive authority of the Union shall extend to the giving of directions to any State to observe such canons of financial propriety as may be specified in the directions, and to the giving of such other directions as the President may deem necessary and adequate for the purpose.

(4) Notwithstanding anything in this Constitution—

(*a*) any such direction may include—

(*i*) a provision requiring the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of a State;

(*ii*) a provision requiring all Money Bills or other Bills to which the provisions of article 207 apply to be reserved for the consideration of the President after they are passed by the Legislature of the State;

(*b*) it shall be competent for the President during the period any Proclamation issued under this article is in operation to issue directions for the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of the Union including the Judges of the Supreme Court and the High Courts.

PART XIX.

MISCELLANEOUS.

Protection of President and Governors and Rajpramukhs.

361. (1) The President, or the Governor or Rajpramukh of a State, shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties:

Provided that the conduct of the President may be brought under review by any court, tribunal or body appointed or designated by either House of Parliament for the investigation of a charge under article 61 :

Provided further that nothing in this clause shall be construed as restricting the right of any person to bring appropriate proceedings against the Government of India or the Government of a State.

(2) No criminal proceedings whatsoever shall be instituted or continued against the President, or the Governor or Rajpramukh of a State, in any court during his term of office.

(3) No process for the arrest or imprisonment of the President, or the Governor or Rajpramukh of a State, shall issue from any court during his term of office.

(4) No civil proceedings in which relief is claimed against the President, or the Governor or Rajpramukh of a State, shall be instituted during his term of office in any court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as President, or as Governor or Rajpramukh of such State, until the expiration of two months next after notice in writing has been delivered to the President or the Governor or the Rajpramukh, as the case may be, or left at his office stating the nature of the proceedings, the cause of action therefor, the name, description and place of residence of the party by whom such proceedings are to be instituted and the relief which he claims.

Rights and privileges of Rulers of Indian States.

362. In the exercise of the power of Parliament or of the Legislature of a State to make laws or in the exercise of the executive power of the Union or of a State, due regard shall be had to the guarantee or assurance given under any such covenant or agreement as is referred to in clause (1) of article 291 with respect to the personal rights, privileges and dignities of the Ruler of an Indian State.

Bar to interference by courts in disputes arising out of certain treaties, agreements, etc.

363. (1) Notwithstanding anything in this Constitution but subject to the provisions of article 143, neither the Supreme Court nor any other court shall have jurisdiction in any dispute arising out of any provision of a treaty, agreement, covenant, engagement, *sanad* or other similar instrument which was entered into or executed before the commencement of this Constitution by any Ruler of an Indian State and to which the Government of the Dominion of India or any of its predecessor Governments was a party and which has or has been continued in operation after such commencement, or in any dispute in respect of any right accruing under or any

liability or obligation arising out of any of the provisions of this Constitution relating to any such treaty, agreement, covenant, engagement, *sanad* or other similar instrument.

(2) In this article—

(*a*) "Indian State" means any territory recognized before the commencement of this Constitution by His Majesty or the Government of the Dominion of India as being such a State; and

(*b*) "Ruler" includes the Prince, Chief or other person recognized before such commencement by His Majesty or the Government of the Dominion of India as the Ruler of any Indian State.

Special provisions as to major ports and aerodromes.

364. (1) Notwithstanding anything in this Constitution, the President may by public notification direct that as from such date as may be specified in the notification—

(*a*) any law made by Parliament or by the Legislature of a State shall not apply to any major port or aerodrome or shall apply thereto subject to such exceptions or modifications as may be specified in the notification, or

(*b*) any existing law shall cease to have effect in any major port or aerodrome except as respects things done or omitted to be done before the said date, or shall in its application to such port or aerodrome have effect subject to such exceptions or modifications as may be specified in the notification.

(2) In this article—

(*a*) "major port" means a port declared to be a major port by or under any law made by Parliament or any existing law and includes all areas for the time being included within the limits of such port;

(*b*) "aerodrome" means aerodrome as defined for the purposes of the enactments relating to airways, aircraft and air navigation.

Effect of failure to comply with, or to give effect to, directions given by the Union.

365. Where any State has failed to comply with, or to give effect to, any directions given in the exercise of the executive power of the Union under any of the provisions of this Constitution, it shall be lawful for the President to hold that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution.

Definitions.

366. In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

(1) "agricultural income" means agricultural income as defined for the purposes of the enactments relating to Indian income-tax;

(2) "an Anglo-Indian" means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not established there for temporary purposes only;

(3) "article" means an article of this Constitution;

(4) "borrow" includes the raising of money by the grant of annuities, and "loan" shall be construed accordingly;

(5) "clause" means a clause of the article in which the expression occurs;

(6) "corporation tax" means any tax on income, so far as that tax is payable by companies and is a tax in the case of which the following conditions are fulfilled:—

(*a*) that it is not chargeable in respect of agricultural income;

(*b*) that no deduction in respect of the tax paid by companies is, by any enactments which may apply to the tax, authorized to be made from dividends payable by the companies to individuals;

(*c*) that no provision exists for taking the tax so paid into account in computing for the purposes of Indian income-tax the total income of individuals receiving such dividends, or in computing the Indian income-tax payable by, or refundable to such individuals;

(7) "corresponding Province", "corresponding Indian State" or "corresponding State" means in cases of doubt such Province, Indian State or State as may be determined by the President to be the corresponding Province, the corresponding Indian State or the corresponding State, as the case may be, for the particular purpose in question;

(8) "debt" includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee, and "debt charges" shall be construed accordingly;

(9) "estate duty" means a duty to be assessed on or by reference to the principal value, ascertained in accordance with such rules as may be prescribed by or under laws made by Parliament or the Legislature of a State relating to the duty, of all property passing upon death or deemed, under the provisions of the said laws, so to pass;

(10) "existing law" means any law, Ordinance, order, bye-law, rule or regulation passed or made before the commencement of this Constitution by any Legislature, authority or person having power to make such a law, Ordinance, order, bye-law, rule or regulation;

(11) "Federal Court" means the Federal Court constituted under the Government of India Act, 1935;

(12) "goods" includes all materials, commodities and articles;

(13) "guarantee" includes any obligation undertaken before the commencement of this Constitution to make payments in the event of the profits of an undertaking falling short of a sepecified amount;

(14) "High Court" means any Court which is deemed for the purposes of this Constitution to be a High Court for any State and includes—

(*a*) any Court in the territory of India constituted or reconstitued under this Constitution as a High Court, and

(*b*) any other Court in the territory of India which may be declared by Parliament by law to be a High Court for all or any of the purposes of this Constitution;

(15) "Indian State" means any territory which the Government of the Dominion of India recognized as such a State;

(16) "Part" means a Part of this Constitution;

(17) "pension" means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of any pension, and includes retired pay so payable, a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or any other addition thereto, of subscriptions to a provident fund;

(18) "Proclamation of Emergency" means a Proclamation issued under clause (1) of article 352;

(19) "public notification" means a notification in the *Gazette of India*, or, as the case may be, the Official Gazette of a State;

(20) "railway" does not include—

(*a*) a tramway wholly within a municipal area, or

(*b*) any other line of communication wholly situated in one State and declared by Parliament by law not to be a railway;

(21) "Rajpramukh" means—

(*a*) in relation to the State of Hyderabad, the person who for the time being recognized by the President as the Nizam of Hyderabad;

(*b*) in relation to the State of Jammu and Kashmir or the State of Mysore, the person who for the time being is recognized by the President as the Maharaja of that State; and

(*c*) in relation to any other State specified in Part B of the First Schedule, the person who for the time being is recognized by the President as the Rajpramukh of that State,

and includes in relation to any of the said States any person for the time being recognized by the President as competent to exercise the powers of the Rajpramukh in relation to that State;

(22) "Ruler" in relation to an Indian State means the Prince, Chief or other person by whom any such covenant or agreement as is referred to in clause (1) of article 291 was entered into and who for the time being is recognized by the President as the Ruler of the State, and includes any person who for the time being is recognised by the President as the successor of such Ruler;

(23) "Schedule" means a Schedule to this Constitution;

(24) "Scheduled Castes" means such castes, races or tribes or parts or groups within such castes, races or tribes as are deemed under article 341 to be Scheduled Castes for the purposes of this Constitution;

(25) "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution;

(26) "securities" includes stock;

(27) "sub-clause" means a sub-clause of the clause in which the expression occurs;

(28) "taxation" includes the imposition of any tax or impost, whether general or local or special, and "tax" shall be construed accordingly;

(29) "tax on income" includes a tax in the nature of an excess profits tax;

(30) "Uparajpramukh" in relation to any State specified in Part B of the First Schedule means the person who for the time being is recognized by the President as the Uparajpramukh of that State.

Interpretation.

367. (1) Unless the context otherwise requires, the General Clauses Act, 1897, shall, subject to any adaptations and modifications that may be made therein under article 372, apply for the interpretation of this Constitution as it applies for the interpretation of an Act of the Legislature of the Dominion of India.

(2) Any reference in this Constitution to Acts or laws of, or made by, Parliament, or to Acts or laws of, or made by the Legislature of a State specified in Part A or Part B of the First Schedule, shall be construed as including a reference to an Ordinance made by the President or, to an Ordinance made by a Governor or Rajpramukh, as the case may be.

(3) For the purposes of this Constitution "foreign State" means any State other than India:

Provided that subject to the provisions of any law made by Parliament, the President may by order declare any State not to be a foreign State for such purposes as may be specified in the order.

PART XX.

AMENDMENT TO THE CONSTITUTION.

Procedure for amendment of the Constitution.

368. An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President for his assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that if such amendment seeks to make any change in —

(*a*) article 54, article 55, article 73, article 162 or article 241, or

(*b*) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI, or

(*c*) any of the Lists in the Seventh Schedule, or

(*d*) the representation of States in Parliament, or

(*e*) the provisions of this article,

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States specified in Parts A and B of the First Schedule by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.

PART XXI.

TEMPORARY AND TRANSITIONAL PROVISIONS.

Temporary power to Parliament to make laws with respect to certain matters in the State List as if they were matters in the Concurrent List.

369. Notwithstanding anything in this Constitution, Parliament shall, during a period of five years from the commencement of this Constitution, have power to make laws with respect to the following matters as if they were enumerated in the Concurrent List, namely :—

(*a*) trade and commerce within a State in, and the production, supply and distribution of, cotton and woollen textiles, raw cotton (including ginned cotton and unginned cotton or *kapas*), cotton seed, paper (including newsprint), foodstuffs (including edible oil seeds and oil), cattle fodder (including oil-cakes and other concentrates), coal (including coke and derivatives of coal), iron, steel and mica ;

(*b*) offences against laws with respect to any of the matters mentioned in clause (*a*), jurisdiction and powers of all courts except the Supreme Court with respect to any of those matters, and fees in respect of any of those matters but not including fees taken in any court ;

but any law made by Parliament, which Parliament would not but for the provisions of this article have been competent to make, shall, to the extent of the incompetency, cease to have effect on the expiration of the said period, except as respects things done or omitted to be done before the expiration thereof.

Temporary provisions with respect to the State of Jammu and Kashmir.

370. (1) Notwithstanding anything in this Constitution,—

(*a*) the provisions of article 238 shall not apply in relation to the State of Jammu and Kashmir ;

(*b*) the power of Parliament to make laws for the said State shall be limited to—

(*i*) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State ; and

(*ii*) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify.

Explanation.—For the purposes of this article, the Government of the State means the person for the time being recognised by the President as the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under the Maharaja's Proclamation dated the fifth day of March 1948 ;

(*c*) the provisions of article 1 and of this article shall apply in relation to that State;

(*d*) such of the other provisions of this Constitution shall apply in relation to that State subject to such exceptions and modifications as the President may by order specify:

Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (*i*) of sub-clause (*b*) shall be issued except in consultation with the Government of the State:

Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government.

(2) If the concurrence of the Government of the State referred to in paragraph (*ii*) of sub-clause (*b*) of clause (1) or in the second proviso to sub-clause (*d*) of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon.

(3) Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify:

Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification.

Temporary provisions with respect to States in Part B of the First Schedule.

371. Notwithstanding anything in this Constitution, during a period of ten years from the commencement thereof, or during such longer or shorter period as Parliament may by law provide in respect of any State, the Government of every State specified in Part B of the First Schedule shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given by, the President:

Provided that the President may by order direct that the provisions of this article shall not apply to any State specified in the order.

Continuance in force of existing laws and their adaptation.

372. (1) Notwithstanding the repeal by this Constitution of the enactments referred to in article 395 but subject to the other provisions of this Constitution, all the law in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority.

(2) For the purpose of bringing the provisions of any law in force in the territory of India into accord with the provisions of this Constitution, the President may by order make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary of expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.

(3) Nothing in clause (2) shall be deemed—

(*a*) to empower the President to make any adaptation or modification of any law after the expiration of two years from the commencement of this Constitution; or

(*b*) to prevent any competent Legislature or other competent authority from repealing or amending any law adapted or modified by the President under the said clause.

Explanation I.—The expression "law in force" in this article shall include a law passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

Explanation II.—Any law passed or made by a Legislature or other competent authority in the territory of India which immediately before the commencement of this Constitution had extra-territorial effect as well as effect in the territory of India shall, subject to any such adaptations and modifications as aforesaid, continue to have such extra-territorial effect.

Explanation III.—Nothing in this article shall be construde as continuing any temporary law in force beyond the date fixed for its expiration or the date on which it would have expired if this Constitution had not come into force.

Explanation IV.—An Ordinance promulgated by the Governor of a Province under section 88 of the Government of India Act, 1935, and in force immediately before the commencement of this Constitution shall, unless withdrawn by the Governor of the corresponding State earlier, cease to operate at the expiration of six weeks from the first meeting after such commencement of the Legislative Assembly of that State functioning under clause (1) of article 382, and nothing in this article shall be construed as continuing any such Ordinance in force beyond the said period.

Power of President to make order in respect of persons under preventive detention in certain cases.

373. Until provision is made by Parliament under clause (7) of article 22, or until the expiration of one year from the commencement of this Constitution, whichever is earlier, the said article shall have effect as if for any reference to Parliament in clauses (4) and (7) thereof there were substituted a reference to the President and for any reference to any law made by Parliament in those clauses there were substituted a reference to an order made by the President.

Provisions as to Judges of the Federal Court and proceedings pending in the Federal Court or before His Majesty in Council.

374. (1) The Judges of the Federal Court holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the Judges of the Supreme Court and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave of absence and pension as are provided for under article 125 in respect of the Judges of the Supreme Court.

(2) All suits, appeals and proceedings, civil or criminal, pending in the Federal Court at the commencement of this Constitution shall stand removed to the Supreme Court, and the Supreme Court shall have jurisdiction to hear and determine the same, and the judgments and orders of the Federal Court delivered or made before the commencement of this Constitution shall have the same force and effect as if they had been delivered or made by the Supreme Court.

(3) Nothing in this Constitution shall operate to invalidate the exercise of jurisdiction by His Majesty in Council to dispose of appeals and petitions from, or in respect of, any judgment, decree or order of any court within the territory of India in so far as the exercise of such jurisdiction is authorised by law, and any order of His Majesty in Council made on any such appeal or petition after the commencement of this Constitution shall for all purposes have effect as if it were an order or decree made by the Supreme Court in the exercise of the jurisdiction conferred on such Court by this Constitution.

(4) On and from the commencement of this Constitution the jurisdiction of the authority functioning as the Privy Council in a State specified in Part B of the First Schedule to entertain and dispose of appeals and petitions from or in respect of any judgment, decree or order of any court within that State shall cease, and all appeals and other proceedings pending before the said authority at such commencement shall be transferred to, and disposed of by, the Supreme Court.

(5) Further provision may be made by Parliament by law to give effect to the provisions of this article.

375. All courts of civil, criminal and revenue jurisdiction, all authorities and all officers, judicial, executive and ministerial, throughout the territory of India, shall continue to exercise their respective functions subject to the provisions of this Constitution.

Courts, authorities and officers to continue to function subject to the provisions of the Constitution.

376. (1) Notwithstanding anything in clause (2) of article 217, the Judges of a High Court in any Province holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become, on such commencement, the Judges of the High Court in the corresponding State, and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave of absence and pension as are provided for under article 221 in respect of the Judges of such High Court.

Provisions as to Judges of High Courts.

(2) The Judges of a High Court in any Indian State corresponding to any State specified in Part B of the First Schedule holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become, on such commencement, the Judges of the High Court in the State so specified and shall, notwithstanding anything in clauses (1) and (2) of article 217 but, subject to the proviso to clause (1) of that article, continue to hold office until the expiration of such period as the President may by order determine.

(3) In this article the expression "Judge" does not include an acting Judge or an additional Judge.

377. The Auditor-General of India holding office immediately before the commencement of this Constitution shall, unless he has elected otherwise, become, on such commencement, the Comptroller and Auditor-General of India and shall thereupon be entitled to such salaries and to such rights in respect of leave of absence and pension as are provided for under clause (3) of article 148 in respect of the Comptroller and Auditor-General of India and be entitled to continue to hold office until the expiration of his term of office as determined under the provisions which were applicable to him immediately before such commencement.

Provisions as to Comptroller and Auditor-General of India.

378. (1) The members of the Public Service Commission for the Dominion of India holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become, on such commencement, the members of the Public Service Commission for the Union and shall, notwithstanding anything in clauses (1) and (2) of

Provisions as to Public Service Commissions.

article 316, but subject to the proviso to clause (2) of that article, continue to hold office until the expiration of their term of office as determined under the rules which were applicable immediately before such commencement to such members.

(2) The members of a Public Service Commission of a Province or of a Public Service Commission serving the needs of a group of Provinces holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become, on such commencement, the members of the Public Service Commission for the corresponding State or the members of the Joint State Public Service Commission serving the needs of the corresponding States, as the case may be, and shall, notwithstanding anything in clauses (1) and (2) of article 316, but subject to the proviso to clause (2) of that article, continue to hold office until the expiration of their term of office as determined under the rules which were applicable immediately before such commencement to such members.

Provisions as to provisional Parliament and the Speaker and Deputy Speaker thereof.

379. (1) Until both Houses of Parliament have been duly constituted and summoned to meet for the first session under the provisions of the Constitution, the body functioning as the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution shall be the provisional Parliament and shall exercise all the powers and perform all the duties conferred by the provisions of this Constitution on Parliament.

Explanation.—For the purposes of this clause, the Constituent Assembly of the Dominion of India includes—

(*i*) the members chosen to represent any State or other territory for which representation is provided under clause (2); and

(*ii*) the members chosen to fill casual vacancies in the said Assembly.

(2) The President may by rules provide for—

(*a*) the representation in the provisional Parliament functioning under clause (1) of any State or other territory which was not represented in the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution,

(*b*) the manner in which the representatives of such States or other territories in the provisional Parliament shall be chosen, and

(*c*) the qualifications to be possessed by such representatives.

(3) If a member of the Constituent Assembly of the Dominion of India was, on the sixth day of October 1949, or thereafter at any time before the commencement of this Constitution, a member of a House of the Legislature of a Governor's Province or of an Indian State corresponding to any State specified in Part B of the First Schedule or a Minister for any such State, then, as from the commencement of this Constitution the seat of such member in the Constituent Assembly shall, unless he has ceased to be a member of that Assembly earlier, become vacant and every such vacancy shall be deemed to be a casual vacancy.

(4) Notwithstanding that any such vacancy in the Constituent Assembly of the Dominion of India as is mentioned in clause (3) has not occurred under that clause, steps may be taken before the commencement of this Constitution for the filling of such vacancy, but any person chosen before such commencement to fill the vacancy shall not be entitled to take his seat in the said Assembly until after the vacancy has so occurred.

(5) Any person holding office immediately before the commencement of this Constitution as Speaker or Deputy Speaker of the Constituent Assembly when functioning as the Dominion Legislature under the Government of India Act, 1935, shall on such commencement be the Speaker or, as the case may be, the Deputy Speaker of the provisional Parliament functioning under clause (1).

Provision as to President.

380. (1) Such person as the Constituent Aseembly of the Dominion of India shall have elected in that behalf shall be the President of India until a President has been elected in accordance with the provisions contained in Chapter I of Part V and has entered upon his office.

(2) In the event of the occurrence of any vacancy in the office of the President so elected by the Constituent Assembly of the Dominion of India by reason of his death, resignation, or removal, or otherwise, it shall be filled by a person elected in that behalf by the provisional Parliament functioning under article 379, and until a person is so elected, the Chief Justice of India shall act as President.

Council of Ministers of the President.

381. Such persons as the President may appoint in that behalf shall become members of the Council of Ministers of the President under this Constitution, and, until appointments are so made, all persons holding office as Ministers for the Dominion of India immediately before the commencement of this Constitution shall on such commencement become, and shall continue to hold office as, members of the Council of Ministers of the President under this Constitution.